

WSR 23-10-005

PROPOSED RULES

BELLEVUE COLLEGE

[Filed April 20, 2023, 6:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-03-120.

Title of Rule and Other Identifying Information: Chapter 132H-136 WAC, Library media center.

Hearing Location(s): On Tuesday, June 6, 2023, at 2 - 3 p.m. PDT, Zoom meeting [https://bellevuecollege.zoom.us/j/88308850361?](https://bellevuecollege.zoom.us/j/88308850361?pwd=TGirdG1lOUg3a2lMZFd5d25yRkc0Zz09)pwd=TGirdG1lOUg3a2lMZFd5d25yRkc0Zz09, Meeting ID 883 0885 0361, Pass-code 394085.

Date of Intended Adoption: October 20, 2023.

Submit Written Comments to: Nicole Longpre, Acting Associate Dean of Library, 3000 Landerholm Circle S.E., Bellevue, WA 98007, email nlongpre@bellevuecollege.edu, by June 6, 2023.

Assistance for Persons with Disabilities: Contact Nicole Longpre, acting associate dean of library, phone 425-564-3071, email nlongpre@bellevuecollege.edu, by May 20, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Bellevue College plans to update library media center (LMC) policy 3550 and chapter 132H-136 WAC to remove holds on transcripts due to debt.

Reasons Supporting Proposal: Bellevue College proposes updates to the current LMC policy 3550 regarding fines. Changes are proposed to comply with SSHB [2SHB] 2513 (this bill prohibits colleges from withholding a student's official transcript for debt collection), to remove and/or update outdated information, and to clarify rules.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140(13).

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: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Nicole Longpre, Acting Associate Dean of Library, 3000 Landerholm Circle S.E., Library Media Center, Bellevue, WA 98007, 425-564-3071.

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. Bellevue College is not one of the enumerated agencies required to conduct cost-benefit analyses under RCW 34.05.328(5).

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.

Scope of exemption for rule proposal:

Is fully exempt.

April 21, 2023

Loreen M. Keller

Associate Director, Policies and Special Projects

OTS-4451.2

**Chapter 132H-136 WAC
LIBRARY MEDIA CENTER ((CODE))**

AMENDATORY SECTION (Amending WSR 05-17-013, filed 8/4/05, effective 9/4/05)

WAC 132H-136-010 Title. WAC 132H-136-010 through ((132H-136-040)) 132H-136-030 will be known as the library media center policy of Community College District VIII.

[Statutory Authority: RCW 28B.50.140. WSR 05-17-013, § 132H-136-010, filed 8/4/05, effective 9/4/05; Order 13, § 132H-136-010, filed 3/9/73.]

AMENDATORY SECTION (Amending WSR 05-17-013, filed 8/4/05, effective 9/4/05)

WAC 132H-136-015 Purpose. The library media center (LMC) provides ((the)) information resources ((needed by students, faculty, staff and the community to encourage learning, innovation, intellectual integrity and civic responsibility. The LMC resources and services support the college's mission to provide accessible services and meet the changing educational needs of our diverse community)) to accomplish Bellevue College's mission and goals by being student-centered and committed to teaching excellence. In order to advance the lifelong educational development of students, the LMC continually strengthens its collections and services in breadth and depth, supporting increased curricular offerings and varied instructional modes of delivery. This policy applies to all ((BCC)) BC employees, students, and library users who use any of the ((library media center)) LMC resources and facilities.

[Statutory Authority: RCW 28B.50.140. WSR 05-17-013, § 132H-136-015, filed 8/4/05, effective 9/4/05.]

AMENDATORY SECTION (Amending WSR 05-17-013, filed 8/4/05, effective 9/4/05)

WAC 132H-136-025 Services. The ((library media center)) LMC maintains a website ((and publishes a brochure)) summarizing information about the LMC, including:

- Hours of service((τ));
- Circulation of collections ((including print and nonprint materials), and));
- Services and resources available ((including media, equipment, and facilities)).

[Statutory Authority: RCW 28B.50.140. WSR 05-17-013, § 132H-136-025, filed 8/4/05, effective 9/4/05.]

AMENDATORY SECTION (Amending WSR 05-17-013, filed 8/4/05, effective 9/4/05)

WAC 132H-136-030 Fines. (~~Charges are levied for overdue, lost, damaged materials and equipment.~~

~~(1) Replacement charges will include cost of replacement plus a processing fee. Replacement costs for items that are no longer in print or not available for purchase will be based upon the cost of a similar item plus a processing fee.~~

~~(2) Charges for overdue materials will be according to a fee schedule that is posted in the circulation desk area and the LMC website and brochure. Students may appeal charges by following the library fines appeal procedure as detailed in the LMC manual of policies and procedures, a copy of which is available in the reserve collection.~~

~~(3) When materials are not returned, or charges not paid, holds are placed on the transcript records of those involved only as a sanction to cause the ultimate return of library media material in order to protect the integrity of the library collection.~~

~~(4) In extreme cases, when expensive or valuable items are involved, the provisions of RCW 27.12.340 may be invoked.)~~ Fines are not charged for overdue materials, except for reserve materials and equipment. A fine schedule is posted at the circulation desk area and the LMC website. Charges are levied for lost or damaged materials and equipment. Replacement charges for different types of items vary. Students may appeal charges by following the library's appeal procedure as detailed in the LMC manual of guidelines and procedures, a copy of which is available in the reserve collection.

Students, employees, and other library users may appeal the imposition of a library charge, fine, or penalty by filing a written notice of appeal with the director of LMC or their designee within 21 days of receiving notice of the charge, fine, or penalty. An individual who fails to file a timely notice of appeal will be deemed to have waived their right to appeal.

The appeal will be heard as a brief adjudicative proceeding, pursuant to chapter 132H-108 WAC. Before issuing a decision, the director of LMC or their designee will conduct an informal hearing and provide both the person challenging the charge, fine, or penalty and a representative from the LMC (collectively, "the parties") an opportunity to present their views on the matter. The director of LMC or their designee will serve the parties with their initial decision within 10 business days of the informal hearing. The initial decision will briefly set forth the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within 21 days of service of the initial decision, the initial decision will be deemed the final decision.

An initial decision is subject to review by the dean or their designee, provided the impacted student, employee, or other library user files a written request for review with the dean's office within 21 days of receiving the initial decision. During the review, the dean

shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to determine whether the findings or sanctions should be modified. The decision on review will briefly set forth the reasons for the decision and will typically be served to the parties within 21 days of receiving all responsive documentation from the parties. The decision on review will contain a notice that judicial review may be available.

[Statutory Authority: RCW 28B.50.140. WSR 05-17-013, § 132H-136-030, filed 8/4/05, effective 9/4/05. Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140. WSR 92-19-052, § 132H-136-030, filed 9/10/92, effective 10/11/92; Order 35, § 132H-136-030, filed 10/10/75; Order 13, § 132H-136-030, filed 3/9/73.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132H-136-020 Loans.

WSR 23-10-020

WITHDRAWAL OF PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed April 26, 2023, 8:52 a.m.]

The health care authority (HCA) is withdrawing the CR-102 proposed rule making for new chapter 182-561 WAC, Community behavioral health support services benefit; and WAC 182-502-0002 Eligible provider types, published by the code reviser in WSR 23-08-048.

This proposed rule will not be introduced for a public hearing on May 9, 2023, as originally planned. HCA hopes to refile the proposed rule at a later date after legislative funding is approved.

Wendy Barcus
Rules Coordinator

WSR 23-10-021

WITHDRAWAL OF PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed April 26, 2023, 9:17 a.m.]

The health care authority (HCA) is withdrawing the CR-102 proposed rule making for WAC 182-509-0300 Modified gross income (MAGI), 182-509-0305 MAGI income—Persons subject to the modified adjusted gross income methodology, and 182-512-0880 SSI-related medical—Special income disregards, published by the code reviser in WSR 23-08-048 [23-08-062].

This proposed rule will not be introduced for a public hearing on May 9, 2023, as originally planned. HCA hopes to refile the proposed rule at a later date after legislative funding is approved.

Wendy Barcus
Rules Coordinator

WSR 23-10-027

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 26, 2023, 11:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-11-048.

Title of Rule and Other Identifying Information: WAC 458-29A-200
Leasehold excise tax—Taxable rent and contract rent.

Hearing Location(s): On June 6, 2023, at 10:00 a.m. This meeting will be conducted over the internet/telephone. Please contact Cathy Holder at CathyH@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: June 16, 2023.

Submit Written Comments to: Ryan Becklean, P.O. Box 47453, Olympia, WA 98504-7453, email RyanBe@dor.wa.gov, fax 360-534-1606, 360-534-1576, by June 9, 2023.

Assistance for Persons with Disabilities: Contact Julie King, phone 360-704-5733, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of revenue (department) intends to modify WAC 458-29A-200 to clarify the amount of contract rent subject to leasehold excise tax when the rent includes payment for both the leasehold interest as well as a concession or other right. The department has also made changes to enhance the readability of the rule.

Reasons Supporting Proposal: Businesses will find that the updates to the rule will assist taxpayers with the calculation and reporting of leasehold excise tax.

Statutory Authority for Adoption: RCW 82.01.060, 82.32.300.

Statute Being Implemented: RCW 82.29A.020, 82.29A.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: None.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Ryan Becklean, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1576; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1615.

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.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-minor costs on businesses, as it does not propose any new requirements not already provided for in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in statute.

April 26, 2023
Atif Aziz
Rules Coordinator

OTS-3794.2

AMENDATORY SECTION (Amending WSR 10-18-034, filed 8/25/10, effective 9/25/10)

WAC 458-29A-200 Leasehold excise tax—Taxable rent and contract rent. (1) **Introduction.** The leasehold excise tax is imposed on the act or privilege of occupying or using publicly owned, or specified privately owned, real or personal property through a leasehold interest at a rate of 12 percent of taxable rent. RCW 82.29A.030. Ordinarily, the amount of taxable rent is the amount of contract rent paid by a private lessee for a taxable leasehold interest. RCW 82.29A.020. The law does authorize the department to establish a taxable rent different from the contract rent in certain cases. RCW 82.29A.020. This rule explains the ~~((exclusions))~~ deduction of certain moneys and other property received by or on behalf of a lessor from the measure of contract rent. It also explains the conditions under which the department is authorized to establish a taxable rent different from the contract rent. Examples found in this rule identify facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) **Contract rent ~~((exclusions))~~ deductions.** ~~((Even when a leasehold interest is present, not all))~~ Certain payments, as described in this subsection, made to a lessor will not constitute taxable contract rent. ((For example,))

(a) **Utility and other charges.** Payments made to or on behalf of the lessor for actual utility charges, janitorial services, security services, repairs and maintenance, and for special assessments such as stormwater impact fees attributable to the private lessee's space or prorated among multiple lessees, are not included in the measure of contract rent, **if** the actual charges are separately stated and billed to the private lessee(s). "Utility charges" means charges for services provided by a public service business subject to the public utility tax under chapter 82.16 RCW, and, for the purpose of this section only, also includes water, sewer, and garbage services and cable television services.

(b) **Amounts collected for third parties.** In some circumstances a private lessee that is occupying or using public property or property of a community center, which is exempt from property tax, may collect ~~((fees))~~ amounts from third parties and remit them to the lessor. ~~((In those situations where:~~

~~((a) The fee structure, rate, or amount))~~ These amounts are not included in the contract rent under this chapter under the following conditions:

(i) The amount (e.g., fee structure or rate) collected by the private party is established by or subject to the review and approval of the lessor or other public entity; and

~~((b))~~ (ii) The amounts received by the private entity from the third parties are remitted entirely to the public lessor or credited to the account of the lessor ((, those amounts are not considered part of the contract rent under this chapter, provided that)).

Nothing in this section ~~((shall preclude or))~~ prevents the imposition of tax, as appropriate, under any other chapter of Title 82 RCW on any amounts retained by or paid to the private entity as considera-

tion for services provided to the public property owner or the community center, which is exempt from property tax.

(c) **Private lessee expenditures.** Contract rent does not include certain private lessee expenditures. These deductions are as follows:

(i) Expenditures made by the private lessee for which the lease agreement requires the lessor to reimburse the private lessee;

(ii) Expenditures made by the private lessee for improvements and protection if the lease or agreement requires the improved property to be open to the general public (e.g., a public boat launch) and prohibits the lessee from enjoying any profit directly from the lease;

(iii) Expenditures made by the private lessee to replace or repair the facilities due to fire or other catastrophic events including payments:

- For insurance to reimburse losses;
- To a public or private entity to protect the property from damage or loss; or
- To a public or private entity for alterations or additions made necessary by an action of government which occurred after the date the lease agreement was executed.

(d) **Improvements taxed as personal property.** Contract rent does not include private lessee improvements added to public property or property of a community center, which is exempt from property tax, if the improvements are taxed as any person's personal property. See subsection (4) of this section for the treatment of improvements not taxed to another person that have a useful life over one year.

(e) **Limitation on deductions.** Notwithstanding the provisions of this subsection, if ((such)) deductions are determined by the department to reduce the amount of contract rent to a level below market value, the department may establish a taxable rent in accordance with subsection (6) of this section.

((For example,)) **Example 1:**

Facts:

• Dan leases retail space in a building owned by the Port of Whistler.

• He pays \$800 per month for the space, which includes building security services. The building security services are not separately stated and billed to Dan.

• Additionally, he is assessed monthly for his pro rata share of actual janitorial and utility services provided by the Port. The Port determines Dan's share of these charges in the following manner: The average annual amount actually paid by the Port for utilities in the prior year is divided by 12. Dan's space within the building is approximately ((ten)) 10 percent of the total space in the building, so the ((averaged)) average monthly charge is multiplied by .10 (Dan's pro rata share based upon the amount of space he leases), and that amount is added to Dan's monthly statement as a line item charge for utilities, separate from the lease payment. The charges for janitorial services are treated in the same manner. ((In this case,))

Result:

• Dan's payment for utilities and janitorial services are not included in the measure of contract rent. His payments for security services are included in the measure of contract rent, and subject to the leasehold excise tax, because they are not ((calculated and charged)) separately stated and billed from the lease payments.

((Contract rent also does not include:

(a) Expenditures made by the lessee for which the lease agreement requires the lessor to reimburse the lessee;

~~(b) Expenditures made by the lessee for improvements and protection if the lease or agreement requires the improved property to be open to the general public (e.g., a public boat launch) and prohibits the lessee from enjoying any profit directly from the lease;~~

~~(c) Expenditures made by the lessee to replace or repair the facilities due to fire or other catastrophic event including, but not necessarily limited to, payments:~~

~~(i) For insurance to reimburse losses;~~

~~(ii) To a public or private entity to protect the property from damage or loss; or~~

~~(iii) To a public or private entity for alterations or additions made necessary by an action of government which occurred after the date the lease agreement was executed.~~

~~(d) Improvements added to public property or property of a community center which is exempt from property tax if the improvements are taxed as any person's personal property.)~~

(3) Special circumstances.

(a) Combined payments including payments for concession, franchise, or other rights. When the payment for a leasehold interest is made in combination with payment for concession, franchise or other rights granted by the lessor, only that part of the payment which represents consideration for the leasehold interest is considered part of the contract rent. For example, if the payment made by the private lessee to the lessor exceeds the fair market rental value for comparable property with similar use, the excess is generally attributable to payment for a concession or other right.

~~((4))~~ **(b) Lease payments based on a percentage of sales.** The measure of contract rent subject to the leasehold excise tax may be based upon a lease ~~((which))~~ that provides that the rent shall be a percentage of business proceeds. The ~~((manner in which))~~ way the rent is calculated does not, in itself, determine the character of the underlying right or interest for which the payment is made.

~~((5))~~ **(c) Concession arrangements for retail sales.** If the rent is based in whole or in part on a percentage of sales and includes payment for the leasehold interest as well as a concession or other right granted by the lessor, there is a rebuttable presumption that the contract rent consists of the first eight percent of sales plus any prepaid rent or minimum rent required under the lease. The department will consider any portion of the contract rent that exceeds that figure as payment for the concession or other right granted by the lessor. If either party to a lease agreement believe the fair market value differs from presumed amount, they may submit documentation to the department demonstrating the fair market rental value for comparable property with similar use. The department will consider this documentation when determining the value of the leasehold interest.

Example 2:

Facts:

• John leases retail space on a Washington state ferry. John pays \$500 per month for the space plus 10 percent of his gross sales.

Result:

• The department will consider contract rent to be \$500 plus 8 percent of John's sales.

(4) Expenditures for improvements treated as contract rent. Expenditures by the private lessee for nonexcludable improvements (see WAC 458-29A-200(2) regarding excludable improvements) with a useful life of more than one year will be treated as prepaid contract rent if the expenditures were intended by the parties to be included as part

of the contract rent. (~~Such~~) This intention may be demonstrated by conduct of the parties or a contract provision granting ownership or possession and use of the improvement to the public owner of the underlying property or the community center, which is exempt from property tax, that owns the underlying property (~~and/or by the conduct of the parties~~). These expenditures should be prorated over the useful life of the improvement, or over the remaining term of the lease or agreement if the useful life of the improvement exceeds that term.

(5) **Default by private lessee.** If the private lessee vacates prior to the end of the lease without the agreement of the lessor, thereby defaulting on the lease, no additional LET is due for the term remaining pursuant to the contract between the lessor and that private lessee.

(6) **Department's authority to establish taxable rent.** RCW 82.29A.020(2) authorizes the department to establish a "taxable rent" that is different from contract rent in some situations.

(a) **When the department may establish taxable rent.** The department may establish a taxable rent that is different from the contract rent if the department determines that (~~a lessee has a leasehold interest in publicly owned property or property of a community center which is exempt from property tax and that such~~) the leasehold interest has not:

(i) Been established through competitive bidding(~~(τ)~~); or

(ii) Negotiated in accordance with statutory requirements regarding the rent payable(~~(τ)~~); or

(iii) Negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor(~~(τ the department may establish a taxable rent computation for use in determining the tax payable under authority granted under)~~). Chapter 82.29A RCW.

(b) **Criteria for computing taxable rent.** The department (~~(shall)~~) must base its computation on the following criteria:

(i) Consideration (~~(shall)~~) must be given to rent being paid to other lessors by private lessees of similar property for similar purposes over similar periods of time; or

(ii) Consideration (~~(shall)~~) must be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person, or the general public.

(~~(b) If the department establishes~~) (c) **Special rule for leases 10 or more years old.** If a lease is 10 or more years old and has not been renegotiated, taxable rent established pursuant to RCW

82.29A.020(2) (~~(τ and the contract rent was established in accordance with)~~) and the procedures (~~(set forth)~~) in that section, (~~(but the lease is ten or more years old and has not been renegotiated, the taxable rent for leasehold excise tax purposes shall)~~) must be prospective only. However, if upon examination, the department determines that the contract rent was not set in accordance with the statutory provisions of RCW 82.29A.020(2) and the rent is below fair market rate, the department may (and in most instances, will) apply the taxable rental rate (~~(retroactively)~~) to prior periods for purposes of determining the leasehold excise tax, subject to the provisions of RCW 82.32.050(~~(τ)~~).

(~~(e)~~) (d) **When the department will not establish taxable rent.** The department will not establish taxable rent if one of the following four situations apply:

(i) The leasehold interest has been established or renegotiated through competitive bidding;

(ii) The rent was set or renegotiated according to statutory requirements;

(iii) Public records demonstrate that the rent was the maximum attainable; or

(iv) A lease properly established or renegotiated in compliance with ~~(6) ((e))~~ (d) (i), (ii), or (iii) of this subsection has been in effect for ~~((ten))~~ 10 years or less without renegotiation.

~~((d))~~ (e) Where the contract rent has been established in accordance with one of the first three criteria ~~((set forth above))~~ provided in (a) of this subsection, and the lease agreement has not been in effect for ~~((ten))~~ 10 years or more, or has been properly renegotiated within the past ~~((ten))~~ 10 years, the taxable rent is deemed to be the stated contract rent.

~~((e))~~ (f) Hanford reservation subleases. If land on the Hanford reservation is subleased to a private or public entity by the state of Washington, "taxable rent" means only the annual cash rental payment made by the sublessee to the ~~((state and))~~ department of ecology as specifically referred to as rent in the sublease agreement between the parties and does not include any other fees, assessments, or charges imposed on or collected by such sublessee irrespective of whether the sublessee pays or collects such other fees, assessments, or charges as specified in the sublease agreement. RCW 82.29A.020.

[Statutory Authority: RCW 82.29A.140. WSR 10-18-034, § 458-29A-200, filed 8/25/10, effective 9/25/10; WSR 99-20-053, § 458-29A-200, filed 10/1/99, effective 11/1/99.]

WSR 23-10-028
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed April 27, 2023, 10:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-053.

Title of Rule and Other Identifying Information: Medical examiner, coroner, and medicolegal investigator training and certification through the Washington state criminal justice training commission (WSCJTC).

Hearing Location(s): On June 14, 2023, at 10:00 a.m., at 19010 1st Avenue South, Burien, WA 98148. Live streaming may not be available. Please come if you wish to attend the meeting or send an email for any public comments.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: Derek Zable, 19010 1st Avenue South, Burien, WA 98148, email Derek.Zable@cjtc.wa.gov, by June 9, 2023.

Assistance for Persons with Disabilities: Contact Derek Zable, phone 206-793-6332, email Derek.Zable@cjtc.wa.gov, by June 9, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establishing rules to carry out RCW 43.101.480, regarding the training and certification of medical examiners, coroners, and other medicolegal investigators.

Reasons Supporting Proposal: To establish clear rules and requirements to receive or be exempted from training, and the processes to receive certification and seek recertification.

Statutory Authority for Adoption: RCW 43.101.080 and 43.101.480.

Statute Being Implemented: RCW 43.101.480.

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

Name of Agency Personnel Responsible for Drafting: Jennifer Pendray and Derek Zable, 19010 1st Avenue South, Burien, WA 98148, 206-571-2190; Implementation and Enforcement: Jennifer Pendray, 19010 1st Avenue South, Burien, WA 98148, 206-571-2190.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The WAC only impact county governments and are regarding the requirements to become certified from WSCJTC.

Scope of exemption for rule proposal:

Is fully exempt.

April 27, 2023
Derek Zable
Records Manager

OTS-4501.1

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-03-030 Request for exemption, waiver, extension or variance. (1) Requests for exemption, waiver, extension or variance from the commission's regulations may be pursued only under this section.

(2) A request for exemption, waiver, extension or variance may be made only by the head of a law enforcement or corrections agency or head of an agency responsible for death investigations, on behalf of an employee or employees directly affected by the regulation. Where a request for an exemption or variance is on behalf of a chief of police or chief medical examiner, such request shall be made by the appointing authority. Requests under this section shall be for mitigation only and shall not raise questions of law or of fact. Such requests shall be submitted in writing to the executive director of the commission and shall include, where applicable:

(a) The particular regulation from which exemption, waiver, extension or variance is sought;

(b) The nature of the exemption, waiver, extension or variance which is sought;

(c) The mitigating factors in the particular case;

(d) The name and mailing address of the requesting party and any person who will personally appear in support of the requesting party, including legal counsel;

(e) A statement that the person signing the request has read it and that to the best of his or her knowledge or information and belief the contents thereof are true.

(3) Upon receipt of a request under this section which satisfies the requirements of subsection (2) of this section, the executive director shall schedule the request for full consideration at the next commission meeting. If it is determined by the chair that circumstances justify expedited review, the chair may schedule a special meeting for the sole purpose of effecting review. After full consideration of the matter, the commission shall deny the request, grant the request or provide alternative mitigating relief.

[Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-03-030, filed 8/4/00, effective 9/4/00.]

OTS-4502.2

**Chapter 139-27 WAC
MEDICOLEGAL FORENSIC INVESTIGATION TRAINING AND CERTIFICATION**

NEW SECTION

WAC 139-27-010 Definitions. (1) **Coroner** means the elected or appointed official tasked with overseeing the medicolegal system of a county, whose principal duty is to investigate death.

(2) **Good standing** means a member of a profession regulated by this chapter who:

(a) Does not have their professional license(s) or certification(s) suspended or revoked;

(b) Does not have any findings by an employer for discrimination, sexual harassment, or other policy violations that factually demonstrate unethical behavior; and

(c) Is in compliance with their employing agency's training requirements.

(3) **Medical examiner** means a physician who is responsible for examining bodies postmortem to determine the cause and manner of death.

(4) **Medicolegal forensic investigation training** means training designated to provide tools, resources, and standards to individuals who perform medicolegal death investigations.

(5) **Medicolegal investigative personnel** means personnel whose role is to investigate any death that falls under the jurisdiction of a coroner's or medical examiner's office, including all unnatural, suspicious, or violent deaths.

(6) **Part-time** means any personnel who work less than full-time hours. Full-time hours are defined by their employer. For the purposes of this chapter, a single day of work in a month will count as employment for that month.

[]

NEW SECTION

WAC 139-27-020 Notice of hire/separation. (1) Coroner's and medical examiner's offices must use an approved form to notify the commission within 15 days when mandated personnel begin ongoing regular employment or appointment with the agency.

(2) Upon separation of a coroner, medical examiner, or medicolegal investigative personnel from a coroner's or medical examiner's office, or upon their movement or rotation, for any reason, to a position within that office that does not require certification, the agency shall notify the commission via an approved form within 15 days of the separation date.

[]

NEW SECTION

WAC 139-27-030 Certifications. (1) All coroners, medical examiners, and medicolegal investigative personnel who are employed in a coroner's or medical examiner's office, must maintain certification as a condition of continued employment.

(2) The commission shall issue a certificate if:

(a) The individual has completed the core medicolegal forensic investigation training developed and delivered by the commission; or

(b) The individual has been granted exemption following the requirements of WAC 139-27-110.

(3) Certificates shall be valid for a period of five years from the date of initial certification.

(4) Certification shall be revoked for the following reasons:

(a) No longer maintaining eligibility for certification due to the revocation of required existing license or certification.

(b) Admission by the employing agency that the certificant is not in good standing.

(c) Determination that the certificant was not eligible to receive a certificate at the time of its issuance.

[]

NEW SECTION

WAC 139-27-040 Continuing education conditions and requirements.

(1) After the initial training period, continuing education is necessary to maintain knowledge and update skills in new technology, equipment, methods, and practices. Every coroner, medical examiner, and medicolegal investigative personnel required to satisfy RCW 43.101.480 must complete a minimum of 45 continuing education hours every five years to be eligible for recertification.

(a) Training may be obtained through the commission or other training resources.

(b) All courses must be relevant to medicolegal forensic death investigation.

(c) Courses must be taught by instructors who are subject matter experts, qualified by industry standards, and are not involved in controversy over their instruction.

(2) Continuing education hours accrued will only count towards recertification if they are attained after the date of initial certification and before the expiration date.

(3) Continuing education credits must be provided by an accredited institution or agency and approved by the commission including, but not limited to: American Board of Medicolegal Death Investigators, American Medical Association, American Osteopathic Association, American Nursing Association, American Academy of Physician Assistants, American Society for Clinical Pathology, American Bar Association, College of American Pathologists, Emergency Medical Services, Federal Emergency Management Agency, International Association for Continuing Education and Training, Peace Officer Standards and Training (or equivalent), Pennsylvania Coroner's Education Board, U.S. Department of Homeland Security or a postsecondary institution recognized by a national educational accrediting agency.

(4) Medical examiner's who maintain certification as a board-certified forensic pathologist certified from the American Board of Pathology meet the continuing education requirements.

[]

NEW SECTION**WAC 139-27-050 Recertification eligibility and requirements.**

(1) All medicolegal forensic death investigation certificates have a five-year duration from the date issued, after which individuals who continue to meet the requirements of WAC 139-27-100 or 139-27-030 must seek recertification. Recertification will begin six months prior to the certification expiration date, and materials must be received by or before the expiration date. The recertification process is provided in WAC 139-27-060. To be eligible for recertification, individuals must meet these requirements:

(a) A medical examiner must:

- (i) Maintain employment by a coroner's or medical examiner's office in Washington state.
- (ii) Maintain their status as a board-certified forensic pathologist certified by the American Board of Pathology or has completed continuing education following WAC 139-27-040.
- (iii) Maintain their license by the Washington state medical commission.

(iv) Be in good standing with their agency of employment.

(b) A coroner or medicolegal investigative personnel must:

- (i) Maintain employment by a coroner's or medical examiner's office in Washington state.
- (ii) Complete 45 hours of continuing education following WAC 139-27-040 over the five-year certification period.
- (iii) Be in good standing with their agency of employment.

(2) If certification lapses, the coroner, medical examiner, or medicolegal investigative personnel will be required to complete the initial certification process again. If certification lapses by one year or more, the individual will be required to attend the core medicolegal forensic investigation training regardless of previous attendance.

[]

NEW SECTION

WAC 139-27-060 Recertification process. (1) Requests for recertification must be submitted by the employing agency designee for any coroner, medical examiner, or medicolegal investigative personnel directly affected by the regulation.

(2) Requests shall be submitted in writing, with appropriate documentation, to the commission. Requests shall be accepted up to six months prior to the expiration date and due by or before the expiration date.

(3) Request for recertification:

(a) For a medical examiner:

- (i) Proof of continued board certification as a forensic pathologist by the American Board of Pathology or proof of 45 hours of continuing education, for which documentation shall include:

- (A) Certificate of completion or other documentation showing completion;
- (B) Course description;
- (C) Agenda/syllabus/program;
- (D) Number of education hours.

(ii) Proof of continued licensure by the Washington state medical commission.

(iii) Proof of good standing by the employing agency on agency letterhead.

(b) For a coroner or medicolegal investigation personnel:

(i) Proof of 45 hours of continuing education. Documentation shall include:

(A) Certificate of completion or other documentation showing completion;

(B) Course description;

(C) Agenda/syllabus/program;

(D) Number of education hours.

(ii) Proof of good standing by the employing agency on agency letterhead.

(4) Upon submission of the appropriate documentation, the commission shall review and evaluate relevant materials and issue recertification, if applicable, within 60 days.

(5) If the applicant has not met the qualifications to receive recertification, the commission shall:

(a) Issue recertification upon satisfactory completion of acceptable continuing education to be completed within six months from time application for recertification is deemed not to have met the qualifications, or submission of needed materials; or

(b) Require attendance of the core medicolegal forensic investigation training regardless of previous attendance if certification has lapsed by one year or more.

(6) During the six-month period to complete or rectify missing eligibility requirements for recertification required by the commission as provided in subsection (5)(a) of this section, expiration of the current certificate will be delayed until the end of this six-month period or upon the issuance of a new certificate.

[]

NEW SECTION

WAC 139-27-070 Core medicolegal forensic death investigation training curriculum. The core medicolegal forensic death investigation training shall include, but is not limited to, the following subject areas:

- (1) Medicolegal systems;
- (2) Ethics;
- (3) Cause and manner of death;
- (4) Sharp force trauma;
- (5) Blunt force trauma;
- (6) Gunshot wounds;
- (7) Identification;
- (8) Drowning/water related deaths;
- (9) Fire deaths;
- (10) Decomposition and postmortem changes;
- (11) Infant death investigations;
- (12) Next of kin;
- (13) Report writing;
- (14) Photography;
- (15) Missing persons.

[]

NEW SECTION

WAC 139-27-100 Exemption eligibility and requirements. (1) As a condition of continued employment, unless exempted by the commission under this section, all coroners, medical examiners, and medicolegal investigative personnel employed at a county coroner's or medical examiner's office must complete training and receive certification within 12 months of hire for full-time personnel or 18 months of hire for part-time personnel.

(2) Requirements for exemption:

(a) A medical examiner who:

(i) Is employed by a coroner's or medical examiner's office in Washington state.

(ii) Is a board-certified forensic pathologist certified by the American Board of Pathology (ABP), maintains their certification, and who shows proof of certification.

(iii) Is licensed by the Washington state medical commission, maintains their license, and who shows proof of license.

(iv) Is in good standing with their agency of employment.

(b) A coroner or medicolegal investigative personnel who:

(i) Has been employed as a coroner or medicolegal investigative personnel by a county coroner's or medical examiner's office for at least 12 months as a full-time employee or 18 months as a part-time employee.

(ii) Is certified (minimum registry certification required) by the American Board of Medicolegal Death Investigators (ABMDI).

(iii) Has attended a basic, introductory, or core training course or program or has attended an accumulation of courses which is equivalent to a basic, introductory, or core training course or program within the last five years. The courses/program substitution must be comparable in content and quality to that produced by the commission for the core medicolegal forensic investigation training.

(iv) Is in good standing with their agency of employment.

[]

NEW SECTION

WAC 139-27-110 Exemption process. (1) Requests for exemption must be submitted by the employing agency designee for any coroner, medical examiner, or medicolegal investigative personnel directly affected by the regulation who wish to receive exemption from the initial certification training requirement. Requests shall be submitted in writing with appropriate documentation to the commission.

(2) Request for exemption:

(a) For a medical examiner:

(i) Proof of board certification as a forensic pathologist by the American Board of Pathology.

(ii) Proof of licensure by the Washington state medical commission.

(iii) Proof of good standing by the employing agency on agency letterhead.

(b) For a coroner or medicolegal investigative personnel:

(i) Proof of employment as a coroner or medicolegal investigative personnel by a county coroner's or medical examiner's office for at least 12 months as a full-time employee or 18 months as a part-time employee.

(ii) Proof of certification (minimum registry) by the American Board of Medicolegal Death Investigators.

(iii) Proof of medicolegal forensic investigation training comparable to that offered by the commission. Documentation shall include:

(A) Certificate of completion or other documentation showing completion;

(B) Course description;

(C) Agenda/syllabus/program;

(D) Number of education hours.

(iv) Proof of good standing by the employing agency on agency letterhead.

(3) Upon submission of the appropriate documentation, the commission shall review and evaluate relevant materials and issue a certificate if applicable within 60 days (days calculated per RCW 1.12.040).

(4) If the individual has not met the qualifications to receive exemption, the commission shall:

(a) Issue a certificate upon satisfactory completion of required training or submission of needed materials; or

(b) Require the individual to attend the core medicolegal forensic investigation training produced by the commission in conjunction with the Washington Association of Coroners and Medical Examiners (WACME).

(5) Issuance of a certificate through the exemption process does not exempt the individual from recertification requirements of WAC 139-27-050 or the continuing education requirements of WAC 139-27-040.

[]

WSR 23-10-046
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Office of the Secretary)
(Office of Information Governance)
[Filed April 27, 2023, 4:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-14-033.

Title of Rule and Other Identifying Information: Amending and re-codifying WAC 388-01-005 and 388-01-010; amending WAC 388-01-015, 388-01-020, 388-01-030, 388-01-060, 388-01-070, 388-01-080, 388-01-090, 388-01-100, 388-01-110, 388-01-120, 388-01-130, 388-01-140, 388-01-150, 388-01-160, 388-01-170, 388-01-180, 388-01-190 and 388-01-200; and repealing WAC 388-01-050.

Hearing Location(s): On June 27, 2023, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID[-19] pandemic, hearings are being held virtually. Please see the DSHS website for the most up-to-date information.

Date of Intended Adoption: Not earlier than June 28, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on June 27, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on June 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments add language to clarify, update, and ensure clear policies for responding to public records requests under chapter 42.56 RCW and align policy to comply with new statutes. The amendments repeal the redundant language in WAC 388-01-050.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 42.56.040.

Statute Being Implemented: Chapter 42.56 RCW.

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: None.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Natasha House, Public Records Officer, P.O. Box 45135, Olympia, WA 98504, 360-902-8484.

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. Amendments to chapter 388-01 WAC clarify current department policy and are not considered "significant legislative rules." A cost-benefit analysis is not required.

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; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

April 27, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4974.2

Chapter 388-01 WAC
(~~(DSHS ORGANIZATION/DISCLOSURE OF)~~) PUBLIC RECORDS
—DISCLOSURE

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-005 (~~(What definitions apply to this chapter?)~~) Definitions. The following definitions apply to this chapter:

(1) "Authorization" means a detailed document that gives DSHS permission to use or disclose confidential information and records for specified purposes and within a designated time frame.

(2) "Business days" means Monday through Friday, excluding legal holidays.

(3) "Client" means a person who receives services or benefits from DSHS. Clients include but are not limited to, consumers, recipients, applicants, residents of DSHS facilities or institutions, patients, (~~(parents and children involved with child welfare services, juveniles involved with the juvenile justice system,)~~) parents receiving support enforcement services, persons who previously received services or benefits, and persons applying for benefits or services.

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

(5) "Public records coordinator" means a person designated to respond to public records requests within an organizational unit or who are appointed as responsible for a local office, unit, region, program, or facility.

(6) "Public records officer" means the person designated as the public records officer for the DSHS under RCW 42.56.580. The DSHS public records officer has primary responsibility for management, oversight, and monitoring of DSHS's public records request process.

(7) "Redact" means deleting or marking out exempt information from a public record.

(8) "Third party notice" means notifying affected persons or entities of a public records request to allow the opportunity to enjoin disclosure of the records under RCW 42.56.540.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-005, filed 2/9/18, effective 3/12/18.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-010 What ((are)) is the ((purposes)) purpose of this chapter? The ((purposes)) purpose of this chapter ((are to: (1) Describe the organization of the department of social and health services (DSHS); and (2) Explain how an individual or organization may obtain public records.)) is to ensure compliance by the department of social and health services with the provisions of the Public Records Act, chapter 42.56 RCW.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-010, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-010, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-015 Does any provision in this title create a cause of action? Except where otherwise provided, no provision in Title 388 WAC:

- (1) Creates or is intended to create any right or cause of action;
- (2) Adds to or intends to add to any existing right or cause of action; or
- (3) Compels the establishment of any program or special entitlement.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-015, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 43.17.060. WSR 02-15-119, § 388-01-015, filed 7/18/02, effective 8/18/02.]

AMENDATORY SECTION (Amending WSR 19-02-018, filed 12/21/18, effective 1/21/19)

WAC 388-01-020 How is DSHS organized? DSHS is organized into administrations which direct the provision of food and cash assistance, long-term care, vocational rehabilitation, services for people with intellectual and developmental disabilities, and behavioral health treatment for people in state-operated psychiatric hospitals as well as those with criminal justice involvement, and waiting to receive competency evaluation and restoration services. DSHS contracts with local government, private, and nonprofit contractors to deliver

these services, and operates over 140 field offices and 12 state-run facilities throughout Washington.

~~((1))~~ DSHS's current organizational structure can be located at the following link: <https://www.dshs.wa.gov/office-of-the-secretary/organizational-chart>.

~~((2) You may also request organizational charts by writing to:~~

~~DSHS, office of the secretary
P.O. Box 45010
Olympia, WA 98504-5010.)~~

[Statutory Authority: RCW 42.56.040 and chapter 42.56 RCW. WSR 19-02-018, § 388-01-020, filed 12/21/18, effective 1/21/19. Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-020, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-020, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 19-02-018, filed 12/21/18, effective 1/21/19)

WAC 388-01-030 What public records are available? (1) DSHS prepares and ~~((keeps))~~ maintains public records that relate to the programs it administers. All records DSHS uses to conduct business are public records.

DSHS public records may include documents, audio and video recordings, pictures, email, ~~((computer disks,))~~ and electronic data.

(2) DSHS public records are available to the public unless a law exempts them from disclosure. Some DSHS records are confidential and not available to everyone. Records exempt from public disclosure are listed under chapter 42.56 RCW, WAC 388-01-120, and other federal and state laws applicable to DSHS.

(3) Clients, or someone authorized to act for a client, may access confidential records about the client that are exempt from disclosure to the public unless specifically prohibited by law.

(4) Upon request, DSHS may provide access to records such as rules, policies, indexes, interpretive statements, pamphlets, forms, and other publications at cost under WAC 388-01-180 without using the public records request process.

[Statutory Authority: RCW 42.56.040 and chapter 42.56 RCW. WSR 19-02-018, § 388-01-030, filed 12/21/18, effective 1/21/19. Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-030, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 41.17.020 [42.17.250], 41.17.260 [42.17.260], and 41.17.300 [42.17.300]. WSR 03-17-014, § 388-01-030, filed 8/12/03, effective 9/12/03. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-030, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 19-02-018, filed 12/21/18, effective 1/21/19)

WAC 388-01-060 How may an individual request a public record?

(1) An individual may request a public record ~~((orally))~~ verbally or

in writing from the DSHS public records officer using the following contact information:(-)

DSHS public records officer
Office of information governance
P.O. Box 45135
Olympia WA 98504-5135
Telephone: (360) 902-8484
Fax: (360) 902-7855
Email: DSHSPublicDisclosure@dshs.wa.gov.

DSHS prefers that all public record requests be in writing on the "request for DSHS records" form, DSHS 17-041(~~(-X)~~). Individuals may locate this form on the DSHS website at (~~(https://www.dshs.wa.gov/fsa/forms)~~) https://www.dshs.wa.gov/office-of-the-secretary/forms or request it from(~~(+~~

~~DSHS public records officer~~
~~Services and enterprise support administration~~
~~Information governance unit~~
~~P.O. Box 45135~~
~~Olympia, WA 98504-5135~~
~~Telephone: (360) 902-8484~~
~~Fax: (360) 902-7855~~
~~Email: DSHSPublicDiselosure@dshs.wa.gov.)~~ the DSHS public re-

records officer.

(2) If an individual does not use the DSHS form, the written public record request should include the following information:

(a) The requester's name, organization, mailing address, telephone number, fax number, and email address;

(b) The date of the request;

(c) A detailed description of the identifiable public record being requested;

(d) The email or mailing address where DSHS should send copies of the records, or if the requester wants to inspect the record at DSHS; and

(e) The requester's signature.

(3) An individual may fill out a record request at a DSHS office or send it by regular mail, email, or fax to the public records officer (~~(listed in WAC 388-01-050)~~).

(4) Requests by third parties for confidential client records must be accompanied by a valid authorization as set forth in WAC 388-01-150.

(5) DSHS may ask an individual requesting a public record for personal identification when the law makes a record disclosable to a specific person.

(6) DSHS may deny a "bot" request, which is one of multiple requests from a requester within a (~~(twenty-four)~~) 24 hour period, if responding to multiple requests would cause excessive interference with other essential DSHS functions.

[Statutory Authority: RCW 42.56.040 and chapter 42.56 RCW. WSR 19-02-018, § 388-01-060, filed 12/21/18, effective 1/21/19. Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-060, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-060, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-070 When may a public record be inspected? (1) Individuals may inspect public records during DSHS office hours. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. Contact the public records coordinator in the appropriate office to arrange a time to inspect the public record.

(2) In order to preserve the record or prevent interference in the performance of departmental duties, DSHS reserves the right to restrict an individual's ability to inspect or copy public records. This does not prevent DSHS from providing copies of the public record by mail or email.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-070, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-070, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-080 Does DSHS charge for inspecting or providing public records? (1) There is no fee for inspecting public records.

(2) Pursuant to RCW 42.56.120 (2)(b), DSHS does not calculate the actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) DSHS does not have the resources to conduct a study to determine all of its actual copying costs; and

(b) To conduct such a study would interfere with other essential agency functions.

(3) DSHS may do one or more of the following:

(a) Charge for copies of records according to the default fees in RCW 42.56.120 (2)(b), (c) and (d);

(b) Charge for customized services pursuant to RCW 42.56.120(3);

(c) Charge other copy fees authorized by statutes outside of chapter 42.56 RCW;

(d) Enter into an alternative fee agreement with a requester under RCW 42.56.120(4).

(e) Charge for an advanced deposit of 10% of the estimated fees, including a customized service charge, as allowable under RCW 42.56.120(4).

(4) Responsive records may be provided in installments as allowable under RCW 42.56.120(4). Each installment must be either paid for or inspected prior to fulfilling the remainder of the request.

(5) Payment must be made by check or money order to the department of social and health services.

(6) The department will close a request as abandoned when the requester fails within 30 days to pay for a request, or an installment, or for the required 10% deposit.

~~((4))~~ (7) DSHS may waive copying fees in one or more of the following circumstances:

(a) Clients or someone having a valid authorization or court order to act for a client receiving the first copy of their client file;

- (b) Producing records assists in managing a program;
- (c) The expense of billing exceeds the cost of producing records((-));
- (d) Fees totaling less than \$2.00.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-080, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-080, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-090 When and how must DSHS respond to a public record request? (1) Within five business days after DSHS receives a public record request, DSHS must:

- (a) Produce responsive public records;
 - (b) Acknowledge receipt of the request and provide an estimated date for first response;
 - (c) Provide an internet address and link to the specific records requested;
 - (d) Seek clarification of an unclear request; or
 - (e) Deny the request in writing, noting the reason(s) for denial.
- (2) DSHS may produce records in installments, as appropriate.
- (3) A request received after office hours will be considered to have been received on the following business day.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-090, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-090, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-100 When may DSHS need to extend the time to respond to a public record request? (1) DSHS may extend its estimated response time to:

- (a) Locate and gather responsive records;
 - (b) Notify an individual or organization identified in the records or affected by the request;
 - (c) Determine whether requested records are exempt and whether all or part of the records may be released;
 - (d) Contact the requester to clarify the intent, scope, or specifics of the request.
- (2) If a requester does not clarify an unclear request under subsection (1)(d) of this section, DSHS does not have to respond to the unclear parts of the request.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-100, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-100, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-110 What if a requester disputes production time estimates? If a requester thinks DSHS's time estimate for producing records under chapter 42.56 RCW is unreasonable, the requester may:

(1) Petition the public records coordinator to reduce the time estimate; or

(2) File a lawsuit in superior court under RCW 42.56.550(2).

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-110, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-110, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-120 What if the public record contains information that is exempt from public disclosure? (1) Public records and information may be exempt from disclosure or production under chapter 42.56 RCW or other state or federal laws. Commonly applicable exemptions include, but are not limited to, the following:

(a) Under RCW 42.56.230(1), personal information in files maintained for welfare recipients and patients or clients of public institutions or public health agencies. Personal information includes, but is not limited to:

(i) Names;

(ii) Telephone numbers;

(iii) Fax numbers;

(iv) Email addresses;

(v) Social Security numbers;

(vi) Medical record numbers;

(vii) Health plan beneficiary numbers;

(viii) Account numbers;

(ix) Certificate or license numbers;

(x) Vehicle identifiers and serial numbers, including license plate numbers;

(xi) Device identifiers and serial numbers;

(xii) Web universal resource locators (URLs);

(xiii) Internet protocol (IP) address numbers;

(xiv) Biometric identifiers, including finger and voice prints;

(xv) Full face photographic images and any comparable images;

(xvi) Any other unique identifying number, characteristic, or code;

(xvii) All geographic subdivisions smaller than a state, including street address, mailing address, city, county, precinct, geocodes, and zip code, except for the initial three digits of a zip code; and

(xviii) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death.

(b) Under RCW 74.04.060 and related federal laws, information and records about applicants and recipients of public assistance and other services provided and received under Title 74 RCW.

(c) Under chapter 13.50 RCW and related federal laws, information and records about juvenile offender and child welfare cases.

(d) Under chapter 26.23 RCW and related federal laws, information and records about child support enforcement.

(e) Under chapter 26.33 RCW and related federal laws, information and records about adoption.

(f) Under chapter 70.02 RCW and related federal laws, protected health care information and medical records.

(g) Under RCW 74.34.095, information and records about alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult.

(h) Under RCW 42.56.230(3), personal information in files maintained for DSHS employees or elected officials to the extent that disclosure would violate their right to privacy.

(i) Under RCW 42.56.250, the following information from personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency:

- (A) Residential addresses;
- (B) Residential phone numbers;
- (C) Personal wireless telephone numbers;
- (D) Personal email addresses;
- (E) Social Security numbers;
- (F) Driver's license numbers;
- (G) Identocard numbers;
- (H) Personal demographic details;

(I) Photographs and month and year of birth, except the news media shall have access to the photographs and full dates of birth;

~~((H))~~ (J) Emergency contact information; and

~~((I))~~ (K) Names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.

(j) Under RCW 42.56.640 and 43.17.410, sensitive personal information of vulnerable individuals and in-home caregivers for vulnerable populations, except as allowed under subsection (3) of this section.

(2) If the requested public record contains information that is exempt from public disclosure, DSHS may:

(a) As appropriate, release the nonexempt portion, explaining what exemptions apply to redacted portions of the record;

(b) As appropriate, deny release of the entire record, sending a written explanation and citing the exemption that applies to the denial; or

(c) Neither confirm or deny the existence of the requested records and provide the legal basis for confidentiality as if the responsive records existed, when a denial would reveal information that is confidential and must not be disclosed.

(3) Sensitive personal information under subsection (1)(j) of this section may be disclosed or produced if DSHS determines that the requester:

(a) Meets the criteria under RCW 42.56.645; and

(b) Has complied with any procedures developed by DSHS to protect the confidentiality of the information.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-120, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250

and 34.05.220. WSR 99-15-065, § 388-01-120, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-130 What are a requester's options if DSHS denies a public record request? (1) After DSHS takes final action to deny all or a portion of a public record request, a requester may do any one or more of the following:

(a) Petition for agency review by the denying public records coordinator or an approved designee. The written request must specifically refer to the written statement by the public records coordinator that constituted or accompanied the denial.

(b) Ask the office of the attorney general to review the public record request.

(i) Send a copy of the denied public record request and the DSHS written denial to:

Office of the attorney general
Public records review
P.O. Box 40100
Olympia((7)) WA 98504-0100.

(ii) The office of the attorney general will review the request and DSHS denial. The office of the attorney general issues a written opinion as to whether the requested public record is excluded from disclosure.

(c) File a lawsuit for judicial review under the Public Records Act in superior court in the county where the public record is located.

(2) "Final action" occurs when DSHS indicates that it will not provide responsive records. When DSHS produces installments of records, final action occurs when DSHS produces its last installment or indicates that it will not reconsider a denial. Before DSHS produces its last installment, DSHS may cure deficiencies within prior installments. DSHS encourages requesters to contact the public records coordinator with questions or concerns about installments prior to final action.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-130, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-130, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-140 If a public record identifies or pertains to an individual or organization, other than the requester, is that individual or organization notified? (1) If records responsive to a public records request identify or pertain directly to an individual or organization other than the requester, DSHS may notify the named individual or organization about the request.

- (2) DSHS's third party notice may include:
- (a) A copy of the original request;
 - (b) If appropriate, the records that identify or pertain to the third party;
 - (c) The date DSHS intends to release the record; and
 - (d) A statement that the third party may prevent release of the record by agreement or by bringing a lawsuit and getting an injunction against DSHS and the requester under RCW 42.56.540 prior to the intended release date.
- (3) DSHS may inform the requester that:
- (a) A third party has been notified of the request;
 - (b) DSHS provided the third party with a due date for objecting to disclosure; and
 - (c) In the absence of an agreement with the requester, the third party may bring a lawsuit against the requester and DSHS under RCW 42.56.540 to stop disclosure.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-140, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-140, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

- WAC 388-01-150 May a third party request a client's record?** (1)
 A third party, such as a DSHS client's attorney or lay representative, may access confidential records about a DSHS client with a valid authorization.
- (2) The authorization should:
 - (a) Identify the client;
 - (b) Identify the individual(s) or organization(s) authorized to receive the records;
 - (c) State that DSHS may disclose the information to the requester;
 - (d) Identify the record(s) that the client wants DSHS to release;
 - (e) State the date the authorization expires or an expiration event that relates to the client or the purpose of the use of disclosure;
 - (f) State the reason for disclosure;
 - (g) State the right to revoke;
 - (h) State the potential for redisclosure;
 - (i) As appropriate, include specific language authorizing DSHS to release any one or more of the following to the requester: (~~Chemical dependency~~) substance use disorder records, HIV or STD records, or mental health records; and
 - (j) Include a dated verified signature of the individual with legal authority to authorize the release of records.
 - (3) DSHS may ask for additional proof to verify the third party's authority to access confidential records.
 - (4) In general, a parent may access confidential records about a child under age (~~eighteen~~) 18. But a child must consent to disclosure of the following confidential records:
 - (a) At any age, birth control or abortion records (see RCW 9.02.100);

(b) If over age (~~(thirteen)~~) 13, (~~(chemical dependency)~~) substance use disorder or mental health records (see (~~(RCW 70.96A.230 and)~~) RCW 71.34.530);

(c) If over age (~~(fourteen)~~) 14, sexually transmitted disease records (see RCW 70.24.110); and

(d) If over age (~~(eighteen)~~) 18, all client records held by DSHS.

(5) Legal guardians authorized by court order to act on behalf of a client are not considered to be a third party request.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-150, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-150, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-160 Is DSHS required to create public records for requesters? (1) DSHS is only required to provide access to existing, identifiable public records in its possession at the time of the request (see RCW 42.56.080).

(2) DSHS is not required to collect information to create a public record that does not exist at the time the public record request is received.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-160, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-160, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-170 May DSHS release information or public records outside of the Public Records Act? (1) A request for information is not a Public Records Act request.

(2) A request to access records under authority other than the Public Records Act is not a Public Records Act request, including but not limited to the following examples:

(a) Requests by current employees to access their personnel files under RCW 49.12.240;

(b) Requests by employees and labor unions to access employment records under collective bargaining agreements;

(c) Requests by qualified individuals and organizations to access confidential juvenile offender and child welfare records under chapter 13.50 RCW and related federal laws;

(d) Requests by qualified individuals or organizations to access confidential child support enforcement records under chapter 26.23 RCW and related federal laws;

(e) Requests by qualified individuals or organizations to access confidential adoption records under RCW 26.33.340;

(f) Requests for public access to confidential child welfare records under RCW 74.13.500 through 74.13.525;

- (g) Requests by qualified individuals and organizations to access confidential health care information and medical records under chapter 70.02 RCW and related federal laws;
- (h) Requests for records pursuant to a contract; and
- (i) A legal subpoena or court order for DSHS records.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-170, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-170, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-180 Who should an individual contact to review or get a copy of an interpretive or policy statement index? DSHS issues administrative policy statements that apply to the whole department. Administrations may issue policies and interpretive statements that relate to their own programs. (See RCW 34.05.010.)

(1) To receive a copy of a DSHS administrative policy, send a written request to:

Office of (~~(Policy and External Relations)~~) justice and civil rights

Rules and policies assistance unit
P.O. Box 45850
Olympia((7)) WA 98504-5850.

(2) To receive a copy or review a specific administration's policies or interpretive statements, send a written request to the administration.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-180, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-180, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-190 How can an individual get an index of DSHS significant decisions? (1) The DSHS board of appeals reviews and selects orders and creates an index of significant decisions that substantially affect DSHS performance (see RCW 42.56.070).

(2) The index:

- (a) Is divided into program categories;
- (b) Contains a copy or synopsis of the order; and
- (c) Is updated, as needed.

(3) An individual can view the index on the boards of appeals website at

(~~(<https://www.dshs.wa.gov/node/4060/board-appeals>)~~) <https://www.dshs.wa.gov/of>
or inspect or request a copy by contacting the board of appeals at:

Board of appeals

1115 Washington Street S.E.
 Olympia((7)) WA 98504-5803
 Telephone: (360) 664-6100
Fax: (360) 664-6187

Mailing address:
 Board of appeals
 P.O. Box 45803
 Olympia((7)) WA 98504-5803.

(4) An individual may ask the board of appeals to index an order as a significant decision by sending a written request with a copy of the order to the mailing address.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-190, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-190, filed 7/19/99, effective 8/19/99.]

AMENDATORY SECTION (Amending WSR 18-05-021, filed 2/9/18, effective 3/12/18)

WAC 388-01-200 How may an individual file a petition for declaratory order by DSHS? An individual may file a petition for declaratory order by DSHS as follows:

- (1) Read the information on declaratory orders in RCW 34.05.240 and WAC 10-08-250, 10-08-251, and 10-08-252; and
- (2) File the petition with the DSHS rules and policies assistance unit at:

DSHS Rules and policies assistance unit
 P.O. Box 45850
 Olympia((7)) WA 98504-5850.

[Statutory Authority: RCW 42.56.040. WSR 18-05-021, § 388-01-200, filed 2/9/18, effective 3/12/18. Statutory Authority: RCW 42.17.250 and 34.05.220. WSR 99-15-065, § 388-01-200, filed 7/19/99, effective 8/19/99.]

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

| Old WAC Number | New WAC Number |
|----------------|----------------|
| 388-01-005 | 388-01-010 |
| 388-01-010 | 388-01-005 |

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-01-050

Who should be contacted to request a
public record?

WSR 23-10-048
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)
[Filed April 28, 2023, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-03-059.

Title of Rule and Other Identifying Information: North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments (statement of policy).

Hearing Location(s): On Wednesday, June 7, 2023, at 2:00 p.m., at 150 Israel Road S.W., Room 220, Tumwater, WA 98501.

Date of Intended Adoption: June 8, 2023.

Submit Written Comments to: Nathan Quigley, P.O. Box 9033, Olympia, WA 98507, email Nathan.Quigley@dfi.wa.gov, fax 360-902-0524, by June 7, 2023.

Assistance for Persons with Disabilities: Contact Carolyn Hawkey, phone 360-902-8760, fax 360-902-0524, TTY 1-800-833-6384, email Carolyn.Hawkey@dfi.wa.gov, by June 7, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment would require franchisors to comply with the statement of policy promulgated by NASAA.

Reasons Supporting Proposal: On September 18, 2022, NASAA adopted the statement of policy. The statement of policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. The statement of policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. These provisions are also inconsistent with the Franchise Investment Protection Act's antiwaiver provisions. See RCW 19.100.220(2) and 19.100.180 (2)(g). It is important to note that the adoption of the statement of policy does not represent a material change in requirements for franchise offerings in Washington. However, adoption of the statement of policy would aid franchisors in complying with existing Washington law by providing specific examples of prohibited questionnaires and acknowledgments, while also increasing compliance with antiwaiver and antifraud requirements across the states with such requirements.

Statutory Authority for Adoption: RCW 19.100.250.

Statute Being Implemented: RCW 19.100.250.

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

Name of Proponent: Department of financial institutions (DFI), securities division, governmental.

Name of Agency Personnel Responsible for Drafting: Nathan Quigley, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8797; Implementation: Faith Anderson, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8760; Enforcement: William Beatty, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8760.

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. DFI is not an agency identified in RCW 34.05.328.

Scope of exemption for rule proposal:

Is not exempt.

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

Small Business Economic Impact Statement (SBEIS)

WAC 460-80-325

Concerning the NASAA Statement of Policy

Regarding the Use of Franchise Questionnaires and Acknowledgments

April 13, 2023

Introduction: The securities division of DFI (securities division) has prepared this SBEIS in connection with the proposed amendment to chapter 460-80 WAC to formally adopt the statement of policy promulgated by NASAA.

On September 18, 2022, NASAA adopted the statement of policy. The statement of policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. Specifically, the statement of policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. These provisions are also inconsistent with the antiwaiver provisions in Washington's Franchise Investment Protection Act. See RCW 19.100.220(2) and 19.100.180 (2)(g). It is important to note that the adoption of the statement of policy would not represent a material change in requirements for franchise offerings in Washington. However, adoption of the statement of policy would aid franchisors in complying with existing Washington law by providing specific examples of prohibited questionnaires and acknowledgments, while also increasing compliance with antiwaiver and antifraud requirements across the states with such requirements. The statement of policy is available at <https://www.nasaa.org/wp-content/uploads/2022/09/NASAA-Franchise-Questionnaires-and-Acknowledgments-Statement-of-Policy-9-18-2022.pdf>.

The securities division is proposing to adopt new WAC 460-80-325 to explicitly require franchisors to comply with the statement of policy.

Procedural Background: On January 11, 2023, the securities division filed a CR-101 preproposal statement of inquiry with the office of the code reviser (code reviser) stating that it was considering an amendment to chapter 460-80 WAC to formally adopt the statement of policy. This notice was distributed to the securities division's interested persons list and posted to the agency's rule-making website (also known as the agency rule-making docket). Notice of the potential rule making was also shared with the vice president of state and local government relations at the International Franchise Association and the ABA Forum on Franchising's online discussion forum. On January 23, 2023, the securities division posted on the agency's rule-making docket the text of a draft rule that would add new WAC 460-80-325.

Next, the securities division prepared a survey to determine the costs associated with the proposed rule, and distributed the survey link on February 15, 2023, via email. In the email that provided the link to the survey, the securities division also provided a link to the text of the draft rule. The email requested that law firms and other organizations that received the email forward it to their franchisor clients or members so that they could complete the survey. The

survey link was emailed to 446 recipients. These recipients were the identified contact persons for all currently registered or pending franchise applications and exemption notice filings on file with the securities division. The survey was also posted to the agency's rule-making docket on February 15, 2023. Moreover, on February 16, 2023, the securities division provided the vice president of state and local government relations at the International Franchise Association with a link to the survey via email and posted the survey link on the ABA Forum on Franchising's online discussion forum. Finally, the survey link was provided to the members of the Advisory Committee of the NASAA Franchise and Business Opportunities Project Group on March 7, 2023, with the request that they forward the survey link to their franchisor clients. The survey had a deadline of March 15, 2023. However, the survey remained available on the agency's rule-making docket until March 20, 2023.

The securities division carefully considered the responses to the survey. However, the securities division received only two survey responses, one from a respondent that identified itself as a law firm representing franchisors and one from a respondent that identified itself as a broker. Thus, in addition to receiving limited responses, the securities division did not receive any responses from respondents that identified as franchisors, who are subject to the requirements of the statement of policy. As a result, the securities division did not receive sufficient data to measure the potential disproportionate impact of the draft rule on small businesses. In the absence of sufficient data to calculate disproportionate impact, the securities division has mitigated the costs to both franchisors that are small businesses and franchisors that are not small businesses to the extent possible in accordance with RCW 19.85.030(4), and determined that no changes to the draft rule amendment are necessary. The securities division now intends to proceed with rule making to amend chapter 460-80 WAC by formally proposing the draft rule in a notice of proposed rule making (CR-102) filed with the code reviser.

SECTION 1

Summary of the Proposed Rule: The securities division is proposing to add new WAC 460-80-325, requiring franchisors to explicitly comply with the statement of policy. The statement of policy mandates that franchisors include a legend in their Franchise Disclosure Documents and Franchise Agreements stating:

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

In addition, the statement of policy generally prohibits a franchisor from requiring a prospective franchisee to make any statement in any questionnaire, acknowledgment, or similar document that is subjective, unreasonable, or that attempts to absolve the franchisor or its agents of liability in connection with the sale of a franchise. The statement of policy includes a nonexhaustive list of prohibited statements to aid franchisors in complying with the statutory provisions on which it is based. Franchisors will need to remove all prohibited statements in questionnaires, acknowledgments, and similar

documents, and include the legend set forth above after the effective date of the rule adopting the statement of policy.

SECTION 2

Identify which businesses must comply with the proposed rule using the North American Industry Classification System (NAICS) codes and the minor cost thresholds: Franchisors that offer and sell franchises in Washington will be required to comply with the proposed rule. Franchising is not limited to certain industries.

SECTION 3

Survey of Interested Persons to Determine Costs of Compliance: To obtain information to prepare an SBEIS, RCW 19.85.040 permits an agency to survey a representative sample of affected businesses to assist in the accurate assessment of the costs of a proposed rule. To that end, the securities division prepared an online small business economic impact survey to survey businesses that may be impacted by the proposed rule amendment. The statement of policy applies to franchisors offering and selling franchises in Washington. For purposes of gathering information to prepare an SBEIS, the securities division determined to send the survey link to the identified contact person of every "open" and "current" registered or exempt franchise offering in the securities division's database. "Open" means the franchisor has submitted an application for registration (initial or renewal) or has submitted a franchise notice filing (initial or renewal), but that the securities division has not yet issued a franchise registration permit or a franchise exemption notice filing acknowledgment. "Current" means the franchisor has a franchise registration permit that has not yet expired or a franchise notice filing acknowledgment that has not yet expired. The securities division reasoned that franchisors that recently made a filing with the securities division for the purposes of offering and selling franchises in Washington would likely file franchise registration or exemption filings with the securities division in the future, and would thus be subject to the draft rule. In many cases, the identified contact person for franchisors was a law firm that assists them with making state franchise filings. For this reason, in the email accompanying the survey link, the securities division requested, in part: "If you are a law firm or organization that represents or works with franchisors, please forward this notice to your franchisor clients or franchisor members." We note, however, that some of the identified contact persons for franchisors are in-house legal staff employed by franchisors, and in some cases, are officers, directors, or employees of franchisors.

The securities division distributed the survey link on February 15, 2023, via email. The survey link was emailed to 446 recipients. In the email providing the link to the survey, the securities division explained the reasons for conducting the survey and provided a link to the text of the draft rule. The online survey consisted of 20 questions. The survey asked questions to identify the respondent, to determine if the respondent met the definition of a small business under RCW 19.85.020, to identify the respondent's plans to offer and sell franchises in Washington and other registration states in the future, and to identify the respondent's current use of franchise questionnaires and acknowledgments. In addition, the survey asked whether the proposed rule amendments would cause increased costs, and then requested information on the additional costs of complying in the categories of professional services, equipment, supplies, labor, and administrative costs. The survey also allowed a free-form response for respondents to explain any other additional compliance costs. Lastly, the

survey requested data on whether the proposed amendments would result in lost sales or revenue, or the loss or addition of any jobs.

The introductory language preceding the survey questions asked respondents to complete the survey by March 15, 2023. However, the survey remained available on the agency's rule-making docket until March 20, 2023. The securities division received only two unique responses to the survey. Of the two respondents, both were small businesses as defined by RCW 19.85.020(3) because they had 50 or fewer employees. Neither survey respondent identified itself as a franchisor or an employee, officer, or director of a business that offers or sells franchises, and franchisors are the entities that would directly incur costs making any changes to comply with the statement of policy. As a result of the limited number of survey responses received and the fact that neither of the survey responses were from franchisors, the securities division lacks sufficient data to compare the cost imposed by the draft rule on businesses that are small businesses as compared to the cost imposed by the draft rule on businesses that are not small businesses.

Description of Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule: The proposed rule will not impose additional reporting or recordkeeping requirements on franchisors, whether they constitute small businesses or not. In addition, as indicated above, the proposed rule to adopt the statement of policy will help franchisors comply with antiwaiver and antifraud requirements set forth in the Franchise Investment Protection Act. To comply with the draft rule, franchisors that conduct franchise offerings in Washington should review their offering documents to ensure that they do not contain any prohibited statements and include the legend prescribed by the statement of policy.

Professional Services and Other Costs to Comply with the Proposed Rule: Franchisors may incur additional professional expenses if they hire outside counsel to conduct the necessary review and revision of documents to ensure compliance with the statement of policy. Franchisors may incur additional labor costs if their own employees conduct the review and make necessary revisions. Franchisors may also incur additional administrative costs associated with updating documents to comply with the statement of policy. We estimate that the review of the statement of policy and revision of potentially affected franchise offering documents may require approximately two hours to complete. We do not believe that franchisors will incur any additional costs for equipment or supplies to comply with the statement of policy. We do not believe that compliance with the proposed rule will cause businesses to lose sales or revenue, or that it will create or eliminate jobs.

SECTION 4

The proposed rule may impose more-than-minor costs on businesses:

RCW 19.85.030 provides that an agency must prepare an SBEIS if the proposed rule will impose more-than-minor costs on businesses in an industry. The term "minor cost" is defined to mean a cost per business that is less than three-tenths of one percent of annual revenue or income, or \$100, whichever is greater, or one percent of annual payroll.

It is important to note that the proposed rule does not substantively alter requirements to offer and sell franchises in Washington but is intended to aid franchisors in complying with existing statutory antifraud and antiwaiver provisions. See RCW 19.100.220(2) and 19.100.180 (2)(g). Adoption of the statement of policy would aid franchisors in complying with existing Washington law by providing specif-

ic examples of prohibited questionnaires and acknowledgments, while also increasing compliance with antiwaiver and antifraud requirements across the states with such requirements. Once the proposed rule is adopted, however, franchisors that conduct franchise offerings in Washington should review their offering documents to ensure that they do not contain any prohibited statements and should add the legend prescribed by the statement of policy. The costs associated with conducting such a review and making any necessary changes, as well as filing amended offering documents with the securities division, could exceed \$100; therefore, the securities division prepared this SBEIS.

SECTION 5

Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule: In accordance with RCW 19.85.030(4), while the securities division did not receive sufficient survey data to calculate the potential disproportionate impact on small businesses, the securities division has nevertheless considered methods to reduce the impact of the proposed rule on franchisors subject to the rule in Section 6 below. We do not believe that compliance with the proposed rule will cause businesses to lose sales or revenue.

SECTION 6

If the proposed rule is likely to impose a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses: Although the securities division did not receive sufficient survey data to calculate the potential disproportionate impact on small businesses, the securities division has nevertheless considered methods to reduce the impact of the proposed rule on franchisors subject to the rule in accordance with RCW 19.85.030(4). We discuss the methods considered and the reasons for not making modifications to the proposed rule amendment below.

Reducing, modifying, or eliminating substantive regulatory compliance: Mandating the statement of policy could ultimately save some franchisors, particularly those that offer in multiple states that substantively review and register franchise offerings, certain costs and time. The statement of policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. Specifically, the statement of policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. The prohibited provisions in the statement of policy are based on state antiwaiver and antifraud provisions like those contained in Washington's Franchise Investment Protection Act. See RCW 19.100.220(2) and 19.100.180 (2)(g). Thus, the statement of policy would not represent a material change in requirements for franchise offerings in Washington. However, adoption of the statement of policy would aid franchisors in complying with existing Washington law, as well as the laws of certain other franchise registration states, by providing specific examples of prohibited questionnaires and acknowledgments. The statement of policy is a tool to help ensure that franchisors conform their offerings to preexisting and statutorily imposed antiwaiver and antifraud requirements across the states with such requirements. Increased compliance with these requirements will result in franchisors receiving less correspondence from state regulators asking for changes to documents based on these provisions, and could result in a more streamlined registration process in the long run. Finally, the securities division

has noted that many franchisors are already submitting documents that appear to be revised in an attempt to comply with the statement of policy, although it has not yet been formally adopted in Washington. The securities division believes the adoption of the statement of policy is the most time effective means of bringing franchisors into compliance with Washington law and that reducing, modifying, or eliminating the requirements of the statement of policy would eliminate these benefits and create potential compliance risks for franchisors. Accordingly, the securities division made no changes to the proposed rule.

Simplifying, reducing, or eliminating recordkeeping and reporting requirements: The adoption of the statement of policy would harmonize how different franchise registration states treat questionnaires and acknowledgments in franchise offering materials. Thus, adoption of the proposed rule could result in more franchisors using uniform offering materials in all franchise registration states, or nationwide. Using uniform offering materials would reduce the time a franchisor spends tracking what offering materials can be used in different jurisdictions. Thus, the statement of policy itself simplifies and reduces compliance burdens, although it does not create or modify any recordkeeping and reporting requirements. Further, the securities division's administrative rules do not contain significant recordkeeping or reporting requirements, and any reduction in filing requirements otherwise addressed in our rules would be out of step with statutory requirements.

Reducing the frequency of inspections: The securities division does not inspect franchisors, but the securities division does review franchise filings submitted by franchisors on at least an annual basis. This requirement is set by the Franchise Investment Protection Act. See RCW 19.100.030(4) and 19.100.070. As a result, there is no opportunity to reduce the frequency of inspections.

Delaying compliance timetables: The prohibited provisions in the statement of policy are based on state antiwaiver and antifraud provision and, as such, are also inconsistent with existing antiwaiver provisions in Washington's Franchise Investment Protection Act. See RCW 19.100.220(2) and 19.100.180 (2)(g). Thus, the statement of policy would not represent a material change in requirements for franchise offerings in Washington. In addition, as discussed above, the statement of policy has been adopted in several states that also register franchise offerings. As franchisors are also making changes to comply with the statement of policy in other jurisdictions, complying with the statement of policy in Washington now or in the near future could ultimately save some franchisors certain costs and time. Furthermore, as discussed above, the securities division has noted many franchisors have already submitted documents that appear to be revised in an attempt to comply with the statement of policy. The securities division believes the adoption of the statement of policy at this time is the most time effective means of bringing franchisors into compliance with Washington and other state requirements. Accordingly, the securities division determined that delaying adoption of the proposed rule is not warranted.

That said, the securities division contemplates that franchisors conducting franchise offerings that are already registered may update their offering materials to comply with the statement of policy at the same time they submit their next annual renewal applications. Franchisors conducting exempt offerings may choose to update their offering materials when they prepare their next annual update of the franchise

disclosure document to include updated financial statements as required by the Federal Trade Commission's franchise rule. Thus, while the proposed rule would become effective 31 days after filing the rule-making order with the code reviser and franchisors may update their documents to comply with the rule, franchisors may not file amended documents with the securities division until a filing is otherwise required.

Reducing or modifying fine schedules for noncompliance: There are no fines directly associated with a franchisor's failure to comply with the proposed rule amendments that could otherwise be reduced or modified.

Any other mitigation techniques: The securities division determined to take additional mitigation steps to reduce the overall burden of compliance. The securities division outlines these steps below.

First, in connection with the proposed rule amendments, the securities division will publish and distribute the notice of proposed rule making (CR-102) and the notice of adoption of proposed amendments (CR-103) to its interested persons list and to those who have "open" and "current" registered or exempt franchises in the securities division's database. The securities division will also post notices on our agency rule-making docket and will seek to publicize the adoption of any rule on the website of the NASAA to reach additional franchisors. This will alert franchisors to the potential adoption of the draft rule and would potentially permit some franchisors to make necessary changes to offering materials at the same time they are making a required filing with the securities division unrelated to the draft rule, which could potentially save franchisors time and filing fees. Finally, the securities division will also endeavor to provide answers to franchisor questions about compliance with the statement of policy by phone and email.

Beyond the steps outlined above, the securities division does not believe that it can reduce costs further.

SECTION 7

How the securities division has and will involve small businesses in the rule development: Since the beginning of the rule-making process, the securities division has involved interested persons, including small businesses, in the development of the proposed rules.

On January 11, 2023, the securities division filed a CR-101 pre-proposal statement of inquiry with the code reviser, stating that it was considering an amendment to chapter 460-80 WAC to formally adopt the statement of policy. This notice was distributed to the securities division's interested persons list and posted to the agency rule-making docket. The interested persons list contains many small businesses and those that advise small businesses. Notice of the potential rule making was also shared with the vice president of state and local government relations at the International Franchise Association and the ABA Forum on Franchising's online discussion forum. On January 23, 2023, the securities division posted on the agency rule-making docket the text of a draft rule that would add new WAC 460-80-325.

Next, the securities division prepared a survey to determine the costs associated with the proposed rule, and distributed the survey link on February 15, 2023, via email. In the email that provided the link to the survey, the securities division also provided a link to the text of the draft rule. The email requested that law firms and other organizations that received the email forward it to their franchisor clients or members so that they could complete the survey. The survey link was emailed to 446 recipients. These recipients were the

identified contact persons for all currently registered or pending franchise applications and exemption notice filings on file with the securities division. The survey was also posted on the agency rule-making docket on February 15, 2023. Moreover, on February 16, 2023, the securities division provided the vice president of state and local government relations at the International Franchise Association with a link to the survey via email and posted the survey link on the ABA Forum on Franchising's online discussion forum. Finally, the survey link was provided to the members of the advisory committee of the NASAA Franchise and Business Opportunities Project Group on March 7, 2023, with the request that they forward the survey link to their franchisor clients. The survey had a deadline of March 15, 2023. However, the survey remained available on the agency rule-making docket until March 20, 2023. The securities division will continue to seek the feedback of interested parties as the rule-making process continues.

SECTION 8

Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule: As indicated above, the securities division estimates that the review of the statement of policy and revision of potentially affected franchise offering documents may require approximately two hours to complete. Our expectation is that the vast majority of franchisors will rely on outside counsel to complete the review and revision of franchise offering documents. Thus, we do not believe that adoption of the proposed rule will create or eliminate any jobs.

SECTION 9

Summarize the results of the analysis, including the determination if costs are disproportionate: As indicated above, while the securities division did not receive sufficient survey data to calculate the potential disproportionate impact on small businesses, the securities division has nevertheless considered methods to reduce the impact of the proposed rule on franchisors subject to the rule in Section 6.

A copy of the statement may be obtained by contacting Nathan Quigley, P.O. Box 9033, Olympia, WA 98507, phone 360-902-8797, fax 360-902-0524, TTY 1-800-833-6384, email Nathan.Quigley@dfi.wa.gov.

April 27, 2023
Charlie Clark
Director

OTS-4307.1

NEW SECTION

WAC 460-80-325 NASAA statement of policy regarding the use of franchise questionnaires and acknowledgments. In order to promote uniform regulation, the administrator adopts the North American Securities Administrators Association (NASAA) Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments, as adopted September 18, 2022.

[]

WSR 23-10-058

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed May 1, 2023, 12:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-09-071.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is adding a new section in chapter 388-106 WAC describing long-term services and supports (LTSS) presumptive eligibility (PE) and functional eligibility criteria for clients who are discharging from acute care hospitals or diverting from community psychiatric facilities into an in-home setting with home and community-based (HCB) services.

The health care authority will also be filing rules amending chapters 182-513 and 182-515 WAC to define financial eligibility for LTSS PE.

Hearing Location(s): On June 6, 2023, at 10:00 a.m., at Office Building 2, DSHS Headquarters, 1115 Washington Street [S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearings are held virtually. See the DSHS website <https://www.dshs.wa.gov/office-of-the-secretary/filings-and-rules> for the most current information.

Date of Intended Adoption: Not earlier than June 7, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulescoordinator@dshs.wa.gov, fax 360-664-6185, by June 6, 2023, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by May 22, 2023, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DSHS is adding a new section in chapter 388-106 WAC describing LTSS PE and functional eligibility criteria for clients who are discharging from acute care hospitals or diverting from community psychiatric facilities into an in-home setting with HCB services. LTSS PE is included in the 1115 Waiver amendment currently under review by the Centers for Medicare and Medicaid Services.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 74.08.090 and 74.39A.030.

Statute Being Implemented: RCW 74.08.090 and 74.39A.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: None.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Debbie Johnson, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2531.

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

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

Rules are exempt per RCW 34.05.328 (5) (b) (vii) Rules of DSHS relating

only to client medical or financial eligibility and rules concerning liability for care of dependents.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: 19.85.025(4) because the proposed amendments do not impact small businesses and impose no new or disproportionate costs on small businesses, so a small business economic impact statement is not required. These rules impact determination of care for DSHS clients.

Scope of exemption for rule proposal:

Is fully exempt.

April 27, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4950.2

LONG-TERM SERVICES AND SUPPORTS (LTSS) PRESUMPTIVE ELIGIBILITY (PE)

NEW SECTION

WAC 388-106-1800 What definitions apply to LTSS PE? "Acute care hospital" as defined in chapter 182-550 WAC, may offer inpatient services, outpatient services, continuous nursing services, pharmacy services, food services, and necessary ancillary services. These hospitals may offer specialized patient care services including alcoholism and chemical dependency units or services.

"Care plan" means the document generated using the presumptive eligibility assessment screening tool in CARE that identifies the long-term services and supports you are eligible to receive during the presumptive eligibility period.

"Community psychiatric hospital" means a specialized psychiatric hospital or psychiatric unit within a community hospital that is certified to provide involuntary evaluation and treatment services.

"Diversion" means you have discharged from a local community psychiatric facility onto HCS LTSS and have a 90- or 180-day commitment order for further involuntary treatment; or you are detained through the Involuntary Treatment Act and are stabilized and discharged onto LTSS prior to the need to petition for a 90- or 180- day commitment order.

"LTSS" means Long-term Services and Supports as defined in WAC 182-513-1100.

"MPC" means Medicaid Personal Care which is defined as personal care services in WAC 388-106-0010.

"NFLOC" means nursing facility level of care as defined in WAC 388-106-0355.

"PE screening" means the functional and financial assessment completed using the presumptive eligibility screening tool within CARE to determine presumptive eligibility for LTSS NFLOC PE services or LTSS MPC PE services.

"Presumptive eligibility" means a determination made using a screening process completed by the department to gather preliminary information to determine if you meet the eligibility criteria described in WAC 388-106-1805 and 388-106-1815 of this section to receive services while the final eligibility determination is being completed. This is also known as PE.

[]

NEW SECTION

WAC 388-106-1805 Am I eligible for LTSS NFLOC PE services? You are eligible to receive LTSS NFLOC PE services if you meet the following criteria based upon the attested information in your PE screening:

(1) Meet functional eligibility requirements as defined in WAC 388-106-0355 (1) (a), (b), (c), or (d); and

(2) Meet financial eligibility requirements as defined in WAC 182-513-1315; and

(3) Will be discharging from an acute care hospital or diverting from a community psychiatric hospital; or

(4) Have discharged or diverted from an acute care hospital or community psychiatric hospital in the last 30 days; and

(5) Live in your own home as defined in WAC 388-106-0010; and

(6) Are not receiving any other medicaid funded long-term services and supports.

[]

NEW SECTION

WAC 388-106-1810 What services may I receive under LTSS NFLOC PE? You may receive the following services under LTSS NFLOC PE:

(1) Up to a maximum of 103 hours a month of personal care services as defined in WAC 388-106-0010;

(2) Nurse delegation, as defined in WAC 388-106-0270;

(3) Personal Emergency Response System (PERS), as defined in WAC 388-106-0270;

(4) Home delivered meals, as defined in WAC 388-106-0300;

(5) Specialized medical equipment and supplies, as defined in WAC 388-106-0300;

(6) Assistive/Adaptive technology and equipment, as defined in WAC 388-106-0270;

(7) Community transition or sustainability services as defined in WAC 388-106-0270, which are nonrecurring set-up items and services to assist with expenses to move from an acute care hospital or diversion from a psychiatric hospital stay to an in-home setting and may include:

- (a) Security deposits that are required to lease an apartment or home;
- (b) Activities to assess need, arrange for, and obtain needed resources, including essential household furnishings;
- (c) Set-up fees or deposits for utility or services access, including telephone, electricity, heating, water, and garbage;
- (d) Services necessary for your health and safety such as pest eradication and one-time cleaning prior to occupancy;
- (e) Moving expenses; and
- (f) Minor home accessibility modifications necessary for hospital discharge.
- (8) Community choice guide: specialty services which provide assistance and support to ensure an individual's successful transition to the community or maintenance of independent living, as defined in WAC 388-106-0300; and
- (9) Supportive Housing as defined in WAC 388-106.

[]

NEW SECTION

WAC 388-106-1815 Am I eligible for LTSS MPC PE Services? You are eligible to receive LTSS MPC PE services if you meet the following criteria based upon the attested information in your PE screening:

- (1) Meet functional eligibility requirements as defined in WAC 388-106-0210; and
- (2) Meet financial eligibility requirements as defined in WAC 182-513-1225; and
- (3) Will be discharging from an acute care hospital or diverting from a community psychiatric hospital; or
- (4) Have discharged or diverted from an acute care hospital or community psychiatric hospital in the last 90 days; and
- (5) Live in your own home as defined in WAC 388-106-0010; and
- (6) Are not receiving any other medicaid funded long-term services and supports.

[]

NEW SECTION

WAC 388-106-1820 What services may I receive under LTSS MPC PE? Under LTSS MPC PE you may receive up to 34 hours per month of personal care services as defined in WAC 388-106-0010.

[]

NEW SECTION

WAC 388-106-1825 Who can provide long-term care services when I am eligible for LTSS NFLOC or LTSS MPC PE services? The following types of providers can provide long-term care services:

(1) Individual providers (IPs) as defined in WAC 388-115-0503, who provide services to clients in the client's own home.

(2) Home care agencies that provide services to clients in the client's own home. Home care agencies must be licensed under chapter 70.127 RCW and chapter 246-335 WAC and contracted with the department.

(3) Providers who have contracted with the department to perform other services.

[]

NEW SECTION

WAC 388-106-1830 When will the department authorize my LTSS NFLOC or LTSS MPC PE services? The department will authorize LTSS NFLOC PE or LTSS MPC PE services when you:

(1) Are found both financially and functionally eligible for PE services by completing your PE screening which includes the amount of participation toward the cost of your care that you must pay (if any);

(2) Have given consent for services and approved your care plan; and

(3) Have chosen a DSHS qualified provider(s), per WAC 388-71-0510.

In the event the department implements a wait list under WAC 388-106-1860 for LTSS NFLOC PE or LTSS MPC PE services, the department will not be able to authorize PE services for new applicants.

[]

NEW SECTION

WAC 388-106-1835 When do LTSS NFLOC PE or LTSS MPC PE services end? (1) Your LTSS NFLOC PE or LTSS MPC PE services end with the earlier date of:

(a) The date the decision was made on your application as defined in WAC 388-106-0010;

(b) The date you were confirmed by a CARE assessment to not meet functional eligibility criteria as defined in WAC 388-106-0355 or 388-106-0210; or

(c) The last day of the month following the month in which your presumptive eligibility services were authorized if you did not submit your application.

(2) You may only receive LTSS NFLOC PE or LTSS MPC PE services once within a 24-month period.

[]

NEW SECTION

WAC 388-106-1840 Where can I receive LTSS NFLOC PE or LTSS MPC PE services? You can receive LTSS NFLOC PE or LTSS MPC PE services:

(1) In your own home as defined in WAC 388-106-0010;

(2) While you are out of your home accessing the community or working while:

(a) within the state of Washington; or

(b) in a recognized out-of-state bordering city as defined in WAC 182-501-0175.

[]

NEW SECTION

WAC 388-106-1845 What do I pay for if I receive LTSS NFLOC PE or LTSS MPC PE services? (1) If you receive LTSS MPC PE services you are not required to pay toward the cost of care for those services.

(2) If you receive LTSS NFLOC PE, you may be required to pay toward the cost of your care as outlined in WAC 182-515-1509. You are allowed to keep some of your income for a maintenance allowance.

[]

NEW SECTION

WAC 388-106-1850 Do I have a right to an administrative hearing on LTSS NFLOC PE or LTSS MPC PE determinations? Applicants do not have an administrative hearing right as defined in chapter 388-02 WAC on LTSS NFLOC PE or LTSS MPC PE eligibility determinations.

[]

NEW SECTION

WAC 388-106-1855 Can an exception to rule (ETR) be granted for eligibility or service determinations? ETRs will not be granted for LTSS NFLOC PE or LTSS MPC PE eligibility determinations or service determinations.

[]

NEW SECTION

WAC 388-106-1860 Will there be a wait list for LTSS NFLOC PE or LTSS MPC PE? (1) The department will implement a statewide wait list if program expenditures or enrollment exceeds availability of funding.

(2) If the department implements a wait list for LTSS NFLOC PE or LTSS MPC PE:

(a) We will stop conducting presumptive eligibility assessments and determinations.

(b) If additional funding becomes available, applicants on a wait list for LTSS NFLOC PE or LTSS MPC PE will be considered on a first

come first serve basis based upon their request date for LTSS NFLOC PE
or LTSS MPC PE.

[]

WSR 23-10-061
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 1, 2023, 2:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-061.

Title of Rule and Other Identifying Information: WAC 458-40-610 Timber excise tax—Definitions and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): On June 7, 2023, at 10 a.m., internet/phone via Microsoft Teams. Please contact Cathy Holder at CathyH@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: Tiffany Doi, P.O. Box 47453, Olympia, WA 98504-7453, email TiffanyD@dor.wa.gov, fax 360-534-1606, by June 9, 2023.

Assistance for Persons with Disabilities: Contact Julie King, phone 360-704-5733, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department of revenue (department) to revise the stumpage value tables every six months. The department establishes the stumpage value tables to appraise timber harvesters of the timber values used to calculate the timber excise tax, WAC 458-40-660. The values in the proposed rule will apply July 1 through December 31, 2023.

The department proposes updating the definition of "thinning" to include stumpage value areas 6 and 7, WAC 458-40-610.

Reasons Supporting Proposal: This proposal provides the revised stumpage value tables for July 1 through December 31, 2023, and the amended definition for "thinning."

Statutory Authority for Adoption: RCW 82.01.060(2) and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Tiffany Doi, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1558; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1615.

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 Tiffany Doi, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1558, fax 360-534-1606.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-minor costs on businesses, as it does not propose any new requirements not already provided for in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in statute.

May 1, 2023
Atif Aziz
Rules Coordinator

OTS-4556.1

AMENDATORY SECTION (Amending WSR 19-02-068, filed 12/28/18, effective 1/1/19)

WAC 458-40-610 Timber excise tax—Definitions. (1) **Introduction.** The purpose of WAC 458-40-610 through 458-40-680 is to prescribe the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096.

Unless the context clearly requires otherwise, the definitions in this rule apply to WAC 458-40-610 through 458-40-680. In addition to the definitions found in this rule, definitions of technical forestry terms may be found in *The Dictionary of Forestry*, 1998, edited by John A. Helms, and published by the Society of American Foresters.

(2) **Codominant trees.** Trees whose crowns form the general level of the main canopy and receive full light from above, but comparatively little light from the sides.

(3) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competitive sales" includes making available to the general public permits for the removal of forest products.

(4) **Cord measurement.** A measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(5) **Damaged timber.** Timber where the stumpage values have been materially reduced from the values shown in the applicable stumpage value tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen causes.

(6) **Dominant trees.** Trees whose crowns are higher than the general level of the main canopy and which receive full light from the sides as well as from above.

(7) **Firewood.** Commercially traded firewood is considered scaled utility log grade as defined in subsection (14) of this section.

(8) **Forest-derived biomass.** Forest-derived biomass consists of tree limbs, tops, needles, leaves, and other woody debris that are residues from such activities as timber harvesting, forest thinning, fire suppression, or forest health. Forest-derived biomass does not include scalable timber products or firewood (defined in WAC 458-40-650).

(9) **Harvest unit.** An area of timber harvest, defined and mapped by the harvester before harvest, having the same stumpage value area, harvest adjustments, harvester, and harvest identification. The harvest identification may be a department of natural resources forest practice application number, public agency harvesting permit number, public sale contract number, or other unique identifier assigned to the timber harvest area prior to harvest operations. A harvest unit

may include more than one section, but harvest unit may not overlap a county boundary.

(10) **Harvester.** Every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester. In cases where the identity of the harvester is in doubt, the department of revenue will consider the owner of the land from which the timber was harvested to be the harvester and the one liable for paying the tax.

The definition above applies except when the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use. When a governmental entity described above fells, cuts, or takes timber, the harvester is the first person, other than another governmental entity as described above, acquiring title to or a possessory interest in such timber.

(11) **Harvesting and marketing costs.** Only those costs directly and exclusively associated with harvesting merchantable timber from the land and delivering it to the buyer. The term includes the costs of piling logging residue on site, and costs to abate extreme fire hazard when required by the department of natural resources. Harvesting and marketing costs do not include the costs of other consideration (for example, reforestation, permanent road construction), treatment to timber or land that is not a necessary part of a commercial harvest (for example, precommercial thinning, brush clearing, land grading, stump removal), costs associated with maintaining the option of land conversion (for example, county fees, attorney fees, specialized site assessment or evaluation fees), or any other costs not directly and exclusively associated with the harvesting and marketing of merchantable timber. The actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide documented proof of such costs, or when harvesting and marketing costs cannot be separated from other costs, the deduction for harvesting and marketing costs is (~~thirty-five~~) 35 percent of the gross receipts from the sale of the logs.

(12) **Legal description.** A description of an area of land using government lots and standard general land office subdivision procedures. If the boundary of the area is irregular, the physical boundary must be described by metes and bounds or by other means that will clearly identify the property.

(13) **Log grade.** Those grades listed in the "*Official Log Scaling and Grading Rules*" developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum requirements of peeler or sawmill grades as defined in the "*Official Log Scaling and Grading Rules*" published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than (~~fifty~~) 50 percent of the gross scale; and meeting the following minimum requirements:

(a) Minimum gross diameter - Two inches.

(b) Minimum gross length - (~~twelve~~) 12 feet.

(c) Minimum volume - (~~ten~~) 10 board feet net scale.

(d) Minimum recovery requirements - (~~one hundred~~) 100 percent of adjusted gross scale in firm useable chips.

(14) **Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber where all the volume offered is sold to the highest bidder.

(15) **MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.

(16) **Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.

(17) **Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. Some examples of permanent improvements are as follows: Construction of permanent roads; installation of permanent bridges; stockpiling of rock intended to be used for construction or reconstruction of permanent roads; installation of gates, cattle guards, or fencing; and clearing and reforestation of property.

(18) **Permanent road.** A road built as part of the harvesting operation which is to have a useful life subsequent to the completion of the harvest.

(19) **Private timber.** All timber harvested from privately owned lands.

(20) **Public timber.** Timber harvested from federal, state, county, municipal, or other government owned lands.

(21) **Remote island.** An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

(22) **Scale sale.** A sale of timber in which the amount paid for timber in cash and/or other consideration is the arithmetic product of the actual volume harvested and the unit price at the time of harvest.

(23) **Small harvester.** A harvester who harvests timber from privately or publicly owned forest land in an amount not exceeding (~~two million~~) 2,000,000 board feet in a calendar year. See RCW 84.33.035.

(24) **Species.** A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following are considered separate species for the purpose of harvest classification used in the stumpage value tables:

(a) **Other conifer.** All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.

(b) **Other hardwood.** All hardwoods not separately designated in the stumpage value tables. See WAC 458-40-660.

(c) **Special forest products.** The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.

(d) **Chipwood.** All timber processed to produce chips or chip products delivered to an approved chipwood destination that has been approved in accordance with the provisions of WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670.

(e) **Small logs.** All conifer logs excluding redcedar harvested in stumpage value area 6 or 7 generally measuring seven inches or less in scaling diameter, purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670. Log diameter and length is measured in accordance with the Eastside Log Scaling Rules developed and authored by the Northwest Log Rules Advisory Group, with length not to exceed (~~twenty~~) 20 feet.

(f) **Sawlog.** For purposes of timber harvest in stumpage value area 6, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than (~~ten~~) 10 board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(g) **Piles.** All logs sold for use or processing as piles that meet the specifications described in the most recently published edition of the *Standard Specification for Round Timber Piles (Designation: D 25)* of the American Society for Testing and Materials.

(h) **Poles.** All logs sold for use or processing as poles that meet the specifications described in the most recently published edition of the *National Standard for Wood Poles—Specifications and Dimensions (ANSI 05.1)* of the American National Standards Institute.

(25) **Stumpage.** Timber, having commercial value, as it exists before logging.

(26) **Stumpage value.** The true and fair market value of stumpage for purposes of immediate harvest.

(27) **Stumpage value area (SVA).** An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

(28) **Taxable stumpage value.** The value of timber as defined in RCW 84.33.035(7), and this chapter. Except as provided below for small harvesters and public timber, the taxable stumpage value is the appropriate value for the species of timber harvested as set forth in the stumpage value tables adopted under this chapter.

(a) **Small harvester option.** Small harvesters may elect to calculate the excise tax in the manner provided by RCW 84.33.073 and 84.33.074. The taxable stumpage value must be determined by one of the following methods as appropriate:

(i) **Sale of logs.** Timber which has been severed from the stump, bucked into various lengths and sold in the form of logs has a taxable stumpage value equal to the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber.

(ii) **Sale of stumpage.** When standing timber is sold and harvested within (~~twenty-four~~) 24 months of the date of sale, its taxable stumpage value is the actual purchase price in cash and/or other consideration for the stumpage for the most recent sale prior to harvest. If a person purchases stumpage, harvests the timber more than (~~twenty-four~~) 24 months after purchase of the stumpage, and chooses to report under the small harvester option, the taxable stumpage value is the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber. See WAC 458-40-626 for timing of tax liability.

(b) **Public timber.** The taxable stumpage value for public timber sales is determined as follows:

(i) **Competitive sales.** The taxable stumpage value is the actual purchase price in cash and/or other consideration. The value of other consideration is the fair market value of the other consideration; provided that if the other consideration is permanent roads, the value is the appraised value as appraised by the seller. If the seller does not provide an appraised value for roads, the value is the actual costs incurred by the purchaser for constructing or improving the roads. Other consideration includes additional services required from the stumpage purchaser for the benefit of the seller when these services are not necessary for the harvesting or marketing of the timber. For example, under a single stumpage sale's contract, when the seller

requires road abandonment (as defined in WAC 222-24-052(3)) of constructed or reconstructed roads which are necessary for harvesting and marketing the timber, the construction and abandonment costs are not taxable. Abandonment activity on roads that exist prior to a stumpage sale is not necessary for harvesting and marketing the purchased timber and those costs are taxable.

(ii) **Noncompetitive sales.** The taxable stumpage value is determined using the department of revenue's stumpage value tables as set forth in this chapter. Qualified harvesters may use the small harvester option.

(iii) **Sale of logs.** The taxable stumpage value for public timber sold in the form of logs is the actual purchase price for the logs in cash and/or other consideration less appropriate deductions for harvesting and marketing costs. Refer above for a definition of "harvesting and marketing costs."

(iv) **Defaulted sales and uncompleted contracts.** In the event of default on a public timber sale contract, wherein the taxpayer has made partial payment for the timber but has not removed any timber, no tax is due. If part of the sale is logged and the purchaser fails to complete the harvesting, taxes are due on the amount the purchaser has been billed by the seller for the volume removed to date. See WAC 458-40-628 for timing of tax liability.

(29) **Thinning.** (~~Timber removed from a harvest unit located in stumpage value area 1, 2, 3, 4, 5, or 9:~~

~~(a) When the total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest; and~~

~~(b) The harvester leaves a minimum of one hundred) The total timber volume removed is less than 40 percent of the total merchantable volume of the harvest unit prior to harvest; and~~

(a) Western Washington stumpage value areas 1, 2, 3, 4, 5, and 9: The harvester leaves a minimum of 100 undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof; or

(b) Eastern Washington stumpage value areas 6 and 7: The harvester leaves a minimum of 80 undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

[Statutory Authority: RCW 82.01.060(2) and 84.33.096. WSR 19-02-068, § 458-40-610, filed 12/28/18, effective 1/1/19. Statutory Authority: RCW 82.32.300, 82.01.060(2), 84.33.096, and 84.33.091. WSR 12-14-065, § 458-40-610, filed 6/29/12, effective 7/1/12. Statutory Authority: RCW 82.32.300, 82.01.060(2), and 84.33.096. WSR 10-07-040, § 458-40-610, filed 3/10/10, effective 4/10/10. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, and 84.33.091. WSR 09-14-108, § 458-40-610, filed 6/30/09, effective 7/31/09. Statutory Authority: RCW 82.32.300, 82.01.060(2), and 84.33.096. WSR 06-17-186, § 458-40-610, filed 8/23/06, effective 9/23/06; WSR 06-02-007, § 458-40-610, filed 12/22/05, effective 1/22/06; WSR 05-08-070, § 458-40-610, filed 3/31/05, effective 5/1/05. Statutory Authority: RCW 82.32.300 and 84.33.096. WSR 02-21-005, § 458-40-610, filed 10/3/02, effective 11/3/02; WSR 00-24-068, § 458-40-610, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. WSR 96-02-054, § 458-40-610, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.330 and 84.33.096. WSR 95-18-026, § 458-40-610, filed 8/25/95, effective 8/25/95. Statutory Authority: RCW 84.33.096 and 82.32.300. WSR 90-14-033, § 458-40-610, filed 6/29/90, effective

7/30/90. Statutory Authority: Chapter 84.33 RCW. WSR 87-02-023 (Order 86-4), § 458-40-610, filed 12/31/86.]

AMENDATORY SECTION (Amending WSR 23-02-049, filed 1/2/23, effective 1/2/23)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ~~((January 1 through June 30, 2023))~~ July 1 through December 31, 2023:

Washington State Department of Revenue
WESTERN WASHINGTON STUMPAGE VALUE TABLE
 ((January 1 through June 30, 2023))
July 1 through December 31, 2023

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
 Starting January 1, 2019, there are no Haul Zone adjustments.

| Species Name | Species Code | SVA (Stumpage Value Area) | Stumpage Values | | |
|---------------------------------|------------------------------------|--|---------------------------------------|---|------------------------------------|
| Douglas-fir ⁽²⁾ | DF | 1 | ((547)) <u>541</u> | | |
| | | 2 | ((594)) <u>530</u> | | |
| | | 3 | ((597)) <u>593</u> | | |
| | | 4 | ((627)) <u>580</u> | | |
| | | 5 | ((564)) <u>615</u> | | |
| | | 9 | ((533)) <u>527</u> | | |
| | | Western Hemlock and Other Conifer ⁽³⁾ | WH | 1 | ((345)) <u>292</u> |
| | | | | 2 | ((458)) <u>347</u> |
| | | | | 3 | ((418)) <u>346</u> |
| 4 | ((406)) <u>355</u> | | | | |
| 5 | ((408)) <u>345</u> | | | | |
| 9 | ((334)) <u>278</u> | | | | |
| Western Redcedar ⁽⁴⁾ | RC | 1-5 | ((1358)) <u>1,380</u> | | |
| | | 9 | ((1344)) <u>1,366</u> | | |
| Ponderosa Pine ⁽⁵⁾ | PP | 1-5 | ((200)) <u>152</u> | | |
| | | 9 | ((186)) <u>138</u> | | |

| Species Name | Species Code | SVA (Stumpage Value Area) | Stumpage Values |
|--|--------------|------------------------------|--------------------------|
| Red Alder | RA | 1-5 | ((564)) <u>597</u> |
| | | 9 | ((550)) <u>583</u> |
| Black Cottonwood | BC | 1-5 | ((23)) <u>4</u> |
| | | 9 | ((9)) <u>1</u> |
| Other Hardwood | OH | 1-5 | ((243)) <u>232</u> |
| | | 9 | ((229)) <u>218</u> |
| Douglas-fir Poles & Piles | DFL | 1-5 | ((1061)) <u>970</u> |
| | | 9 | ((1047)) <u>956</u> |
| Western Redcedar Poles | RCL | 1-5 | ((1745)) <u>1,825</u> |
| | | 9 | ((1731)) <u>1,811</u> |
| Chipwood ⁽⁶⁾ | CHW | 1-5 | ((8)) <u>20</u> |
| | | 9 | ((6)) <u>18</u> |
| RC Shake & Shingle Blocks ⁽⁷⁾ | RCS | 1-9 | 588 |
| Posts ⁽⁸⁾ | LPP | 1-9 | 0.35 |
| DF Christmas Trees ⁽⁹⁾ | DFX | 1-9 | 0.25 |
| Other Christmas Trees ⁽⁹⁾ | TFX | 1-9 | 0.50 |

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (4) Includes Alaska-Cedar.
- (5) Includes all Pines in SVA 1-5 & 9.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.
- (9) Stumpage value per lineal foot.

Washington State Department of Revenue
EASTERN WASHINGTON STUMPAGE VALUE TABLE
 ((January 1 through June 30, 2023))
 July 1 through December 31, 2023

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
 Starting January 1, 2019, there are no Haul Zone adjustments.

| Species Name | Species Code | SVA (Stumpage Value Area) | Stumpage Values |
|--|--------------|------------------------------|--|
| Douglas-fir ⁽²⁾ | DF | 6 | ((\$416)) <u>\$402</u> |
| | | 7 | ((430)) <u>416</u> |
| Western Hemlock and Other Conifer ⁽³⁾ | WH | 6 | ((336)) <u>274</u> |
| | | 7 | ((350)) <u>288</u> |
| Western Redcedar ⁽⁴⁾ | RC | 6 | ((1662)) <u>1,200</u> |
| | | 7 | ((1676)) <u>1,214</u> |
| Ponderosa Pine ⁽⁵⁾ | PP | 6 | ((186)) <u>138</u> |
| | | 7 | ((200)) <u>152</u> |
| Other Hardwood | OH | 6 | 1 |
| | | 7 | 9 |
| Western Redcedar Poles | RCL | 6 | ((1833)) <u>1,623</u> |
| | | 7 | ((1847)) <u>1,637</u> |
| Chipwood ⁽⁶⁾ | CHW | 6 | 1 |
| | | 7 | 1 |
| Small Logs ⁽⁶⁾ | SML | 6 | ((23)) <u>12</u> |
| | | 7 | ((25)) <u>14</u> |
| RC Shake & Shingle Blocks ⁽⁷⁾ | RCS | 6-7 | 588 |
| Posts ⁽⁸⁾ | LPP | 6-7 | 0.35 |
| DF Christmas Trees ⁽⁹⁾ | DFX | 6-7 | 0.25 |
| Other Christmas Trees ⁽⁹⁾ | TFX | 6-7 | 0.50 |

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, and Lodgepole Pine in SVA 6-7, or any other conifer not listed on this table.

(4) Includes Alaska-Cedar.

(5) Includes Western White Pine in SVA 6-7.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.

(9) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50 percent) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.,) over two acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from (~~January 1 through June 30, 2023~~) July 1 through December 31, 2023:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 9
 (~~January 1 through June 30, 2023~~)
July 1 through December 31, 2023

| Type of Adjustment | Definition | Dollar Adjustment Per Thousand Board Feet Net Scribner Scale |
|------------------------|---|--|
| I. Volume per acre | | |
| Class 1 | Harvest of 30 thousand board feet or more per acre. | \$0.00 |
| Class 2 | Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre. | -\$15.00 |
| Class 3 | Harvest of less than 10 thousand board feet per acre. | -\$35.00 |
| II. Logging conditions | | |

| Type of Adjustment | Definition | Dollar Adjustment Per Thousand Board Feet Net Scribner Scale |
|--------------------------------|--|--|
| Class 1 | Ground based logging a majority of the unit using tracked or wheeled equipment or draft animals. | \$0.00 |
| Class 2 | Logging a majority of the unit: Using an overhead system of winch-driven cables and/or logging on slopes greater than 45% using tracked or wheeled equipment supported by winch-driven cables. | -\$85.00 |
| Class 3 | Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products. | -\$200.00 |
| III. Remote island adjustment: | | |
| | For timber harvested from a remote island | -\$50.00 |
| IV. Thinning | | |
| ((Class 4)) | A limited removal of timber described in WAC 458-40-610 (28) | -\$100.00 |

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 ((January 1 through June 30, 2023))
July 1 through December 31, 2023

| Type of Adjustment | Definition | Dollar Adjustment Per Thousand Board Feet Net Scribner Scale |
|--------------------------------|---|--|
| I. Volume per acre | | |
| Class 1 | Harvest of more than 8 thousand board feet per acre. | \$0.00 |
| Class 2 | Harvest of 8 thousand board feet per acre and less. | -\$8.00 |
| II. Logging conditions | | |
| Class 1 | The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers. | \$0.00 |
| Class 2 | The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers. | -\$50.00 |
| Class 3 | The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs. | -\$85.00 |
| Class 4 | Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products. | -\$200.00 |
| Note: | A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue. | |
| III. Remote island adjustment: | | |
| | For timber harvested from a remote island | -\$50.00 |
| <u>IV. Thinning</u> | | |
| | <u>A limited removal of timber described in WAC 458-40-610 (28)</u> | <u>-\$60.00</u> |

TABLE 11—Domestic Market Adjustment

| Class | Area Adjustment Applies | Dollar Adjustment Per Thousand Board Feet Net Scribner Scale |
|-------|--|--|
| | SVAs 1 through 5 only: | \$0.00 |
| Note: | This adjustment only applies to published MBF sawlog values. | |

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass,** has a \$0/ton stumpage value.

[Statutory Authority: RCW 82.01.060(2), 84.33.096, 84.33.091, and 84.33.140. WSR 23-02-049, § 458-40-660, filed 1/2/23, effective 1/2/23. Statutory Authority: RCW 82.01.060(2) and 84.33.096. WSR 22-14-029, § 458-40-660, filed 6/24/22, effective 7/1/22. Statutory Authority: RCW 82.01.060(2), 84.33.096, 84.33.091, and 84.33.140. WSR 22-01-185, § 458-40-660, filed 12/20/21, effective 1/1/22. Statutory Authority: RCW 82.01.060(2) and 84.33.096. WSR 21-13-100, § 458-40-660, filed 6/18/21, effective 7/1/21. Statutory Authority: RCW 82.01.060(2), 84.33.096, 84.33.091, and 84.33.140. WSR 21-02-020, § 458-40-660, filed 12/28/20, effective 1/1/21. Statutory Authority: RCW 82.01.060(2) and 84.33.096. WSR 20-14-067, § 458-40-660, filed 6/26/20, effective 7/1/20; WSR 20-02-053, § 458-40-660, filed 12/23/19, effective 1/1/20; WSR 19-14-013, § 458-40-660, filed 6/21/19, effective 7/1/19; WSR 19-02-069, § 458-40-660, filed 12/28/18, effective 1/1/19. Statutory Authority: RCW 82.01.060(2), 82.32.300, and 84.33.096. WSR 18-14-023, § 458-40-660, filed 6/26/18, effective 7/1/18; WSR 18-02-058, § 458-40-660, filed 12/29/17, effective 1/1/18; WSR 17-14-020, § 458-40-660, filed 6/23/17, effective 7/1/17; WSR 17-02-003, § 458-40-660, filed 12/22/16, effective 1/1/17. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091, and 84.33.140. WSR 16-14-035, § 458-40-660, filed 6/28/16, effective 7/1/16. Statutory Authority: RCW 82.01.060(2), 82.32.300, and 84.33.096. WSR 16-01-069, § 458-40-660, filed 12/14/15, effective 1/1/16. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096,

84.33.091, and 84.33.140. WSR 15-14-019, § 458-40-660, filed 6/22/15, effective 7/1/15; WSR 15-01-095, § 458-40-660, filed 12/17/14, effective 1/1/15. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096 and 84.33.091. WSR 14-14-079, § 458-40-660, filed 6/27/14, effective 7/1/14; WSR 14-01-097, § 458-40-660, filed 12/17/13, effective 1/1/14; WSR 13-14-056, § 458-40-660, filed 6/28/13, effective 7/1/13; WSR 13-02-034, § 458-40-660, filed 12/21/12, effective 1/1/13; WSR 12-14-065, § 458-40-660, filed 6/29/12, effective 7/1/12. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091 and 84.33.140. WSR 12-02-040, § 458-40-660, filed 12/29/11, effective 1/1/12. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096 and 84.33.091. WSR 11-14-051, § 458-40-660, filed 6/29/11, effective 7/1/11; WSR 11-02-014, § 458-40-660, filed 12/29/10, effective 1/1/11; WSR 10-14-095, § 458-40-660, filed 7/6/10, effective 7/6/10; WSR 10-02-032, § 458-40-660, filed 12/29/09, effective 1/1/10; WSR 09-14-109, § 458-40-660, filed 6/30/09, effective 7/1/09; WSR 09-02-043, § 458-40-660, filed 12/31/08, effective 1/1/09; WSR 08-14-085, § 458-40-660, filed 6/27/08, effective 7/1/08; WSR 08-02-064, § 458-40-660, filed 12/28/07, effective 1/1/08; WSR 07-14-095, § 458-40-660, filed 6/29/07, effective 7/1/07; WSR 07-02-039, § 458-40-660, filed 12/26/06, effective 1/1/07; WSR 06-14-064, § 458-40-660, filed 6/30/06, effective 7/1/06; WSR 06-02-005, § 458-40-660, filed 12/22/05, effective 1/1/06; WSR 05-14-087, § 458-40-660, filed 6/30/05, effective 7/1/05; WSR 05-02-040, § 458-40-660, filed 12/30/04, effective 1/1/05; WSR 04-14-033, § 458-40-660, filed 6/29/04, effective 7/1/04; WSR 04-01-125, § 458-40-660, filed 12/18/03, effective 1/1/04; WSR 03-14-072, § 458-40-660, filed 6/26/03, effective 7/1/03. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091, and 84.33.140. WSR 03-02-004, § 458-40-660, filed 12/19/02, effective 1/1/03. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.091. WSR 02-14-019, § 458-40-660, filed 6/21/02, effective 7/1/02. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091 and 84.33.120. WSR 02-02-033, § 458-40-660, filed 12/24/01, effective 1/1/02. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.091. WSR 01-13-105, § 458-40-660, filed 6/20/01, effective 7/1/01; WSR 01-02-020, § 458-40-660, filed 12/21/00, effective 1/1/01. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091, 82.32.060, and 84.33.077. WSR 00-19-067, § 458-40-660, filed 9/19/00, effective 1/1/01. Statutory Authority: RCW 82.32.300, 84.33.096 and 84.33.091. WSR 00-14-011, § 458-40-660, filed 6/27/00, effective 7/1/00; WSR 00-02-019, § 458-40-660, filed 12/27/99, effective 1/1/00; WSR 99-14-055, § 458-40-660, filed 6/30/99, effective 7/1/99; WSR 99-02-032, § 458-40-660, filed 12/30/98, effective 1/1/99; WSR 98-14-083, § 458-40-660, filed 6/30/98, effective 7/1/98; WSR 98-02-015, § 458-40-660, filed 12/30/97, effective 1/1/98; WSR 97-14-068, § 458-40-660, filed 6/30/97, effective 7/1/97. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. WSR 97-02-069, § 458-40-660, filed 12/31/96, effective 1/1/97; WSR 96-14-063, § 458-40-660, filed 6/28/96, effective 7/1/96; WSR 96-02-057, § 458-40-660, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.200. WSR 95-18-027, § 458-40-660, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 82.32.300 and 84.33.096. WSR 95-02-038, § 458-40-660, filed 12/30/94, effective 1/1/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. WSR 94-14-048, § 458-40-660, filed 6/30/94, effective 7/1/94; WSR 94-02-047, § 458-40-660, filed 12/30/93, effective 1/1/94; WSR

93-14-051, § 458-40-660, filed 6/30/93, effective 7/1/93; WSR
93-02-025, § 458-40-660, filed 12/31/92, effective 1/1/93; WSR
92-14-083, § 458-40-660, filed 6/29/92, effective 7/1/92; WSR
92-02-067, § 458-40-660, filed 12/31/91, effective 1/1/92. Statutory
Authority: RCW 84.33.096 and 82.32.300. WSR 91-14-077, § 458-40-660,
filed 6/28/91, effective 7/1/91; WSR 91-09-030, § 458-40-660, filed
4/12/91, effective 5/13/91; WSR 91-02-088, § 458-40-660, filed
12/31/90, effective 1/31/91; WSR 90-14-033, § 458-40-660, filed
6/29/90, effective 7/30/90; WSR 90-02-049, § 458-40-660, filed
12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW
and RCW 84.33.091. WSR 89-14-051 (Order FT-89-2), § 458-40-660, filed
6/30/89; WSR 89-02-027 (Order FT-88-5), § 458-40-660, filed 12/30/88;
WSR 88-14-032 (Order FT-88-2), § 458-40-660, filed 6/30/88; WSR
88-02-026 (Order FT-87-5), § 458-40-660, filed 12/31/87. Statutory Au-
thority: Chapter 84.33 RCW. WSR 87-14-042 (Order 87-2), § 458-40-660,
filed 6/30/87; WSR 87-02-023 (Order 86-4), § 458-40-660, filed
12/31/86.]

WSR 23-10-062

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 21-09—Filed May 2, 2023, 8:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-22-111.

Title of Rule and Other Identifying Information: The Washington department of ecology (ecology) proposes new chapter 173-925 WAC, Post-consumer recycled content in plastic containers. This new chapter implements RCW 70A.245.010 through [70A.245.]050 and [70A.245].090 RCW.

For more information on this rule making, visit <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-925>.

Hearing Location(s): On June 8, 2023, at 10:00 a.m. PST. Register in advance for the online hearing <https://waecy-wa-gov.zoom.us/meeting/register/tZcsdeytqTojHtQHdBZHJwVh58F-Si6NToW3>; and on June 15, 2023, at 1:00 p.m. PST. Register in advance for the online hearing <https://waecy-wa-gov.zoom.us/meeting/register/tZIqumtrDgqGNaoWkTz9C0zvtePB7awTOBD>. Ecology is hosting this event online and will provide a summary of the proposed rule, a question-and-answer session, and a formal hearing. You may attend this event from any device with internet access. **Please register in advance. After registering, you will receive a confirmation email containing information about joining the meeting.**

Date of Intended Adoption: October 29, 2023.

Submit Written Comments to: Shannon Jones, Send US mail to: Department of Ecology, Solid Waste Management Program, P.O. Box 47600, Olympia, WA 98504-7600, email recycledcontent@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-925>, e-Comment portal <https://swm.ecology.commentinput.com/?id=gDMcK>, by July 1, 2023.

Assistance for Persons with Disabilities: Contact ecology Americans with Disabilities Act coordinator, phone 360-407-6831, for Washington relay service or TTY call 711 or 877-833-6341, email ecyADAcordinator@ecy.wa.gov, visit <https://ecology.wa.gov/accessibility>, request for reasonable accommodation form <https://ecology.wa.gov/About-us/Accountability-transparency/Accessibility/Request-for-reasonable-accommodation>, by May 31, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new rule will implement the requirements in chapter 70A.245 RCW, Recycling, waste, and litter reduction, to establish a post-consumer recycled content (PCRC) program for covered products. Producers of covered products will have to meet the PCRC requirements as well as annually register, pay agency fees, and report.

The law requires ecology to:

- Prepare an annual workload analysis identifying the agency cost to implement, administer, and enforce the law, and offer the analysis for public comment.
- Adopt rules that establish a PCRC program for producers of covered products and require them to annually register, pay agency fees, and report.

The rule will:

- Define terms and clarify intent of the law.

- Establish equitable producer fees required to fund ecology's administration and oversight of the PCRC program for covered products.
- Specify the information producers are required to provide at registration and in annual reports.
- Establish the process ecology will follow for:
 - o Conducting audits and investigations of producers' annual reports.
 - o Measuring the amount and methods for assessing PCRC.
 - o Reviewing and adjusting PCRC rates.
 - o Excluding certain plastic containers or elements of containers from PCRC requirements.
 - o Determining technical feasibility of meeting PCRC rates.
 - o Establishing corrective action requirements for producers out of compliance.
 - o Determining penalty reductions.

Reasons Supporting Proposal: The 2021 legislature passed chapter 70A.245 RCW to increase recycled content in specific types of plastic packaging to improve plastic packaging collection, processing, and markets. Rules are required to establish the process and procedures for regulatory compliance, producer payment of annual fees, and ecology oversight.

Many consumer brands have committed to voluntary recycled content standards for their plastic bottles, but very few have met those commitments. Mandated PCRC requirements are presumed to motivate increased recovery of plastic packaging in order to provide recyclable feedstock for producers to meet these requirements. Use of recycled content plastic will reduce the production and use of virgin plastic to manufacture plastic containers, thereby reducing associated greenhouse gas emissions.

The law provides for adjustment of the PCRC targets, exclusions from meeting the targets under certain conditions, and corrective action plans to help noncompliant producers reach the targets, as well as penalty reductions.

Statutory Authority for Adoption: Chapter 70A.245.020 and [70A.245].090 RCW, Recycling, waste, and litter reduction.

Statute Being Implemented: RCW 70A.245.010 through [70A.245].050 and {70A.245}.090 RCW, Recycling, waste, and litter reduction.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Shannon Jones, Lacey, WA, 360-742-9874.

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 Shannon Jones, Department of Ecology, Solid Waste Management Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-742-9874, for Washington relay service or TTY call 711 or 877-833-6341, email recycledcontent@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(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typo-

graphical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: Ecology baselines are typically complex, consisting of multiple requirements fully or partially specified by existing rules, statutes, or federal laws. Where the proposed rule differs from this baseline of existing requirements, it is typically subject to (i.e., not exempt from) analysis required under the Regulatory Fairness Act (RFA), chapter 19.85 RCW, based on meeting criteria referenced in RCW 19.85.025(3) as defined by the Administrative Procedure Act in RCW 34.05.310. The small business economic impact statement (SBEIS) below includes a summary of the baseline for this rule making, and whether or how the proposed rule differs from the baseline. We identify relevant RFA exemptions (if any) for each set of requirements.

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

SBEIS

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.

A small business is defined by RFA as having 50 or fewer employees. Estimated costs are determined as compared to the existing regulatory environment, the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

This information is excerpted from ecology's complete set of regulatory analyses for this rule making. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the associated regulatory analyses document (**Ecology publication no. 23-07-031, April 2023**). We have retained section numbers to facilitate cross-referencing.

COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES: Baseline for this rule making: The baseline for our analyses generally consists of existing rules and laws and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule.

For this rule making, the baseline includes:

- RCW 70A.245.010 Definitions.
- RCW 70A.245.020 Postconsumer recycled content.

- RCW 70A.245.030 Producer reporting requirements.
- RCW 70A.245.040 Penalties for postconsumer recycled content requirements—Penalty.
- RCW 70A.245.050 Penalties for registration, labeling, and reporting.
- RCW 70A.245.090 Department duties—Rule making.

The proposed rule: 2.3.1 Adding or Clarifying Definitions Necessary for Implementation of the Rule: We don't expect the proposed definitions to result in significant impacts in the aggregate. The proposed definition of a producer provides more clarity on the scope of producers relative to the baseline interpretation:

- **Producer:** This definition would shift compliance burden to brand owners of products manufactured by other entities. Overall compliance burden would be the same, but redistributed to different parties, including retailers that are brand owners. Associated costs and/or benefits are reflected in estimates that are based on the number and types of producers. Affected industries, as well as output and employment impacts of costs distributed across them, are discussed in Chapter 7.

The proposed definition of a household cleaning product provides more clarity on the scope of covered products depending on baseline interpretation:

- **Household cleaning product:** The baseline includes "household cleaning product" as a subset of its definition of "household cleaning and personal care product" but does not offer any specificity. The proposed definition would clarify what is meant by "household" in this context, and would potentially expand the coverage of the program, depending on the interpretation of the baseline statutory language. Associated costs and/or benefits are reflected in estimates that are based on the number and types of producers.

The impact of these proposed definitions depends on the context of how they are used in the rest of the rule, and their resulting costs and/or benefits (see sections below). Other proposed definitions would add or clarify technical terms needed to implement the proposed rule. This section of the proposed rule provides clarifications, which are exempt under RCW 34.05.310 (4) (d).

2.3.2 Setting requirements for registration and reporting: We expect this section of the proposed rule to result in costs of additional producer effort during registration and reporting, and benefits of full information about producers to facilitate accurate data and any needed interactions related to implementation and enforcement. The proposed rule would not require all producers to certify their reports beyond attestation as to their accuracy (this would be a decision made by the producer) and this flexibility would also impact ecology oversight costs by affecting the need for data checking, audits, and other quality assurance activities. This section of the proposed rule includes elements dictated by statute, which are exempt under RCW 34.05.310 (4) (e).

2.3.3 Establishing fee allocation methods and billing procedures: This section of the proposed rule would establish the methods and procedures required for rule implementation regarding fee calculation, allocation, billing adjustments, and due date setting for the payments. We expect this section of the proposed rule to result in costs

of producer fees, as well as benefits of meeting the statutory requirement to fully fund program costs, and the added value they provide to producers in meeting the baseline law. Transparency in the fee process also potentially improves the ability of producers to plan. Division of fees into the program administration and oversight fee categories gives producers confidence that they are only paying into the portion of oversight which actively applies to them within a given reporting year (meaning producers not yet required to meet PCRC minimum requirements would only have to pay the overall program administration fee and not the PCRC oversight fee). This section of the proposed rule includes elements dictated by statute, which are exempt under RCW 34.05.310 (4) (e).

2.3.4 Adding specific requirements for PCRC weight calculations:

This section of the proposed rule would establish standard options for PCRC weight and percentage calculation for reporting. We do not expect these additional specifications to result in costs as compared to the baseline, as:

- The statute requires the reporting itself, with the implicit expectation that it be accurate.
- The proposed rule facilitates compliance by specifying data calculation methods that meet accuracy requirements, but also allows producers to use alternative methods if they are accurate.

We do not expect this section of the proposed rule to result in benefits beyond reducing potential time it might take under the baseline for producers and ecology to align data and expectations (which would result in additional interactions and potentially delay verification of compliance or identification of issues with compliance). This section of the proposed rule includes elements dictated by statute, which are exempt under RCW 34.05.310 (4) (e). It also clarifies language, which is exempt under RCW 34.05.310 (4) (d).

2.3.5 Establishing requirements for temporary exclusion and adjustment requests: We expect this section of the proposed rule to result in costs of providing necessary documentation in support of exclusions and adjustments. It would also result in benefits of better balance between the compliance requirements and economic conditions that may limit the ability of producers to comply with the rule. Market or technical barriers to compliance could result in noncompliance and failure to achieve the goals of the law. If companies comply with the proposed rule despite significant market or technical barriers, it could instead result in upward pressure on product prices or even in shortages (depending on the ability of consumer demand and prices to adjust to changes in the volumes of products supplied in Washington). This section of the proposed rule includes elements dictated by statute, which are exempt under RCW 34.05.310 (4) (e).

2.3.6 Limit timing for providing necessary audit documentation:

This section of the proposed rule would facilitate producers providing audit documents with enough information for ecology to verify compliance status. Producers could incur costs associated with providing needed documentation for the audit without delays that they may have incurred under the baseline. This section of the proposed rule includes elements dictated by statute, which are exempt under RCW 34.05.310 (4) (e). It also clarifies language, which is exempt under RCW 34.05.310 (4) (d).

2.3.7 Specifying procedures for warnings and penalties for non-compliance: We expect this section of the proposed rule to result in benefits of clear expectations of how many notices ecology will send

before taking further enforcement action. As a result, it potentially affects the timing of when producers incur the costs of coming into compliance and benefits of earlier compliance. Baseline elements are specifically dictated by statute and exempt under RCW 34.05.310 (4)(e). This part of the proposed rule also addresses internal government operations, which are exempt under RCW 34.05.310 (4)(b).

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

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: 3.2.2 Setting requirements for registration, reporting, and de minimis notifications: We expect this section of the proposed rule to result in costs of additional producer effort during registration and reporting. There would also be costs associated with de minimis notifications.

Range of impacted producers: We estimated a range of producers potentially covered by the proposed rule.

- To estimate a low-end number of likely producers of covered PCRC products, we identified 297 producers that have registered with ecology as of January 2023 under the law. This included 262 producers who had already registered with ecology in addition to 35 other producers that were identified by brands in retail stores and public engagement attendees.
- To estimate a high-end number of likely producers of covered PCRC products, we began by identifying industries that were most likely to have businesses covered by the proposed rule. This resulted in a starting population of 8,107 businesses globally. Using the Dun & Bradstreet database, we filtered this population for:
 - o Twenty-two different industry North American Industry Classification System (NAICS) codes (see section 7.6).
 - o Businesses making over \$1,000,000 annually in United States sales.
 - o A low financial stress marketing score: A proprietary multivariate index developed by Dun & Bradstreet, and an indicator of business vulnerability to increased costs, market pressures, and other disruptions. We filtered out high financial stress marketing scores as a proxy for small producers in other states or other countries that were not likely to export to Washington.
- This number was then scaled down depending on how competitive the market for the product was and the Washington market share. For example, a small number of grocery stores own a large percentage of the products sold at these locations, so we estimated that only 1.2 percent of these businesses were likely to have covered products. This resulted in a high-end estimate of 623 producers of covered PCRC products.

According to ecology's record, of those 262 registered with ecology, 155 met de minimis status (only 40.8 percent required to comply). So, we estimate the high end and low end range of producer need to comply as 40.8 percent of 297 to 40.8 percent of 623 (i.e., 121 to 254).

Correspondingly, we expect the remaining 176 (297 minus 120) or 369 (623 minus 254) businesses to meet de minimis status requirements or to simply not be covered by the rule. As we could not discern the two in our data, we chose to potentially overestimate these costs.

Registration and reporting costs: We estimated an annual cost of registration and reporting of approximately \$123 for a single producer required to comply with PCRC requirements. Based on this per-producer cost, we estimate total annual costs of registration and reporting between approximately \$14,823 and \$31,115 for all producers. The 20-year present value of the range of total annual costs is \$272,873 to \$572,808.

De minimis notifications: Ecology requires de minimis producers to annually notify ecology of their de minimis status; however, they are exempted from annual reporting and registration requirements.

We estimate an annual cost of approximately \$31 (per entity) for de minimis notification. Based on the above ranges of de minimis producer (i.e., 176 to 369), we estimated total annual costs of de minimis notification between approximately \$5,391 and \$11,302 for all producers. Ecology reflects streams of costs and benefits over time using present values, which adjust future impacts for inflation and the opportunity cost of having funds later instead of now. The 20-year present value of the range of total annual costs for all producers is between approximately \$99,243 to \$208,072.

Total costs for registration, reporting, and de minimis notification: Across the full range of likely producers of covered PCRC products, we estimated a total annual cost of reporting, registration, and de minimis notification approximately \$20,213 to \$42,417. The corresponding 20-year present values are approximately \$372,116 to \$780,880.

3.2.3 Establishing fee allocation methods and billing procedures: This section of the proposed rule would establish the methods and procedures required for rule implementation regarding fee calculation, allocation, billing adjustments, and due date setting for the payments. We expect this section of the proposed rule to result in costs of producer fees that match the value of the benefits they fund (since fees equal program costs, and wages are a way to approximate the value of services provided; see Chapter 4).

We estimated these costs based on ecology's current workload analysis required under statute (fiscal year (FY) 2024 - July 2023 through June 2024). Ecology estimated total workload costs of approximately \$578,000 during FY 2024. These total costs are the sum of \$299,000 in program administration costs (including the cost of rule making), and \$279,000 in PCRC oversight costs.

For each producer, ecology's workload analysis used the producer-reported total covered product plastic resin weight and weight of plastic resin subject to PCRC requirements, and calculated the share of program costs incurred by producers belonging to each covered product category based on producer registration data (pounds of plastic) submitted in calendar year (CY) 2022.

The workload analysis notes that, "At the time of registration during CY 2022, ecology did not require beverage container producers to specify which portions of their plastic resin weight data were related to the subsets of beverage containers that wouldn't be required to meet PCRC requirements until CY 2028 (187 mL wine bottles and dairy milk containers). The amount of plastic resin attributed to dairy milk containers and 187 mL plastic wine bottles is unknown. When this plastic weight is provided separately during registration in CY 2023, it will reduce the amount of plastic resin in the beverage containers category, compared to the current data. Fees will be calculated based on the registration data submitted by April 1, 2023."

Based on the above note, we assumed that the distribution of fee burden would change each year an added category of products is required to meet PCRC minimums. Household and personal care product industries would assume a share of the PCRC oversight costs beginning with the FY 2026 workload analysis, and producers of dairy milk and 187 mL wine products would have a share of PCRC oversight costs beginning with the FY 2029 workload analysis. Since the quantities of plastic resin and PCRC plastic resin are currently unknown for the dairy milk and 187 mL wine product category, we made a range of assumptions in Chapter 7 reflecting potential redistributions across the industries that would pay fees under the proposed rule.

The costs illustrated in the workload analysis table represent total costs for each category of product. Each producer within a given product category would have a unique fee covering a portion of the category costs, based on each producer's weight of plastic resin for the category. The workload analysis provides the estimated cost per total pound of plastic resin in Washington state. The estimated program administration cost is \$0.0015 per pound of total plastic resin (PCRC and virgin plastic), and the estimated PCRC oversight cost is \$0.0016 per pound of total plastic resin for eligible product categories. FY 2023 actual fees ranged from roughly \$11 for producers with the lowest plastic resin weights, to nearly \$90,000 for producers with the highest plastic resin weights in the registration data submitted in CY 2022.

Of the currently estimated costs of \$578,000 in FY 2024, approximately \$96,000 is attributed to the completion of rule making and the development of the PCRC reporting portal. These costs would be removed from the workload analysis in future years. However, we also anticipate an increased workload beginning in FY 2026 related to increased need for compliance support and auditing and enforcement actions, currently estimated to be \$66,000 per year. The fiscal note for the current law accounted for one-time and future costs and estimated ongoing annual costs of \$664,944 beginning in FY 2026. This estimate provides a high-cost basis for conservatively estimating future fee impacts for members of the regulated community.

We calculated 20-year present value costs of \$11.9 million for this element of the proposed rule. Present values convert streams of costs or benefits over time to a single comparable current value, accounting for inflation as well as the opportunity cost of having funds later versus now. Ecology uses a long-run average real (inflation-adjusted) discount rate in present value calculations, which is currently 0.89 percent.

Comparison of equity under the baseline and proposed rule: Under both the baseline and proposed rule, fees must be sufficient to fund program administration and oversight. This means total fees would be the same under the proposed rule and the baseline. The difference in the proposed rule is in how fees are allocated across producers, based on resin weight. While the baseline does not define an allocation structure, we assumed baseline requirements for equitable distribution could be interpreted as charging each producer an equal share of total fees.

The proposed rule specifies the equations by which the two costs in the workload analysis are distributed among registered non de minimis producers based on their total weights of plastic resin for covered products sold or distributed in Washington state the previous calendar year, as submitted during annual registration or reporting.

Each producer has a unique fee proportionate to the producer's reported plastic resin weights.

In CY 2022, ecology estimated total program administration costs of \$603,144 in the FY 2023 workload analysis, for which no PCRC oversight costs were estimated. Of the total producers who registered in CY 2022, 108 exceeded the de minimis thresholds and were required under law to pay a fee to cover the total estimated costs. Fees were allocated using reported total plastic resin weight and ranged between roughly \$11 for the producers with the smallest plastic resin weights, to nearly \$90,000 for producers with the highest weights of plastic resin. If all fee-paying producers had been required to pay an equal fee, the fee for each producer to cover FY 2023 estimated costs would have been nearly \$5,585 for each producer. Assuming this would be the fee amount under baseline conditions, the rule's method for distributing costs as a fee resulted in cost savings for 87 producers with plastic resin weights under the mean plastic resin weight value across all 108 fee-paying producers, and cost increases for 21 producers with plastic resin weights above the mean value. The tables below summarize average fee impacts for producers by weight range and total weight relative to the mean value.

Table 1. Fee impacts of rule cost distribution by registered plastic resin weight ranges, compared to an equal fee for each producer, based on FY 2023 fees:

| <i>Total Plastic Resin Weight Range</i> | Number of Producers in Range | Average Fee (Rule-Based Calculation) | Average Fee Based on Number of Producers Only | Average Fee Cost Impact of Rule |
|---|------------------------------|--------------------------------------|---|---------------------------------|
| <i>2,001 - 200,000 lbs.</i> | 50 | \$181.84 | \$5,584.67 | -\$5,402.83 |
| <i>200,001 - 500,000 lbs.</i> | 16 | \$1,007.27 | \$5,584.67 | -\$4,577.39 |
| <i>500,001 - 1,000,000 lbs.</i> | 13 | \$2,185.88 | \$5,584.67 | -\$3,398.79 |
| <i>1,000,001 - 1,500,000 lbs.</i> | 5 | \$4,166.96 | \$5,584.67 | -\$1,417.71 |
| <i>1,500,001 - 2,000,000 lbs.</i> | 3 | \$4,807.69 | \$5,584.67 | -\$776.98 |
| <i>2,000,001 - 3,000,000 lbs.</i> | 5 | \$7,467.01 | \$5,584.67 | \$1,882.35 |
| <i>3,000,001 - 10,000,000 lbs.</i> | 13 | \$19,866.30 | \$5,584.67 | \$14,281.64 |
| <i>10,000,001 - 30,000,000 lbs.</i> | 3 | \$72,888.15 | \$5,584.67 | \$67,303.48 |

Table 2. Fee impacts of rule cost distribution by plastic resin weights compared to the mean resin weight value among all producers, compared to an equal fee for each producer, based on FY 2023 fees:

| <i>Above/Below Mean Weight?</i> | Number of Producers | Average Fee (Rule-Based Calculation) | Average Fee Based on Number of Producers Only | Average Fee Cost Impact of Rule |
|---------------------------------|---------------------|--------------------------------------|---|---------------------------------|
| <i>Above</i> | 21 | \$24,488.64 | \$5,584.67 | \$18,903.97 |
| <i>Below</i> | 87 | \$1,021.64 | \$5,584.67 | -\$4,563.03 |

Based on total annual costs of approximately \$664,944 from the fiscal note, the following tables summarize the cost impacts of the rule-based fee distribution, assuming the same set of producers and resin weight from the FY 2023 fee calculations.

Table 3. Fee impacts of rule cost distribution by registered plastic resin weight ranges, compared to an equal fee for each producer, based on ongoing annual cost estimates from the fiscal note:

| <i>Total Plastic Resin Weight Range</i> | Number of Producers in Range | Average Fee (Rule-Based Calculation) | Average Fee Based on Number of Producers Only | Average Fee Cost Impact of Rule |
|---|------------------------------|--------------------------------------|---|---------------------------------|
| <i>2,001 - 200,000 lbs.</i> | 50 | \$200.47 | \$6,156.89 | -\$5,956.42 |
| <i>200,001 - 500,000 lbs.</i> | 16 | \$1,110.48 | \$6,156.89 | -\$5,046.41 |
| <i>500,001 - 1,000,000 lbs.</i> | 13 | \$2,409.85 | \$6,156.89 | -\$3,747.04 |
| <i>1,000,001 - 1,500,000 lbs.</i> | 5 | \$4,593.92 | \$6,156.89 | -\$1,562.97 |
| <i>1,500,001 - 2,000,000 lbs.</i> | 3 | \$5,300.30 | \$6,156.89 | -\$856.59 |
| <i>2,000,001 - 3,000,000 lbs.</i> | 5 | \$8,232.11 | \$6,156.89 | \$2,075.22 |
| <i>3,000,001 - 10,000,000 lbs.</i> | 13 | \$21,901.87 | \$6,156.89 | \$15,744.98 |
| <i>10,000,001 - 30,000,000 lbs.</i> | 3 | \$80,356.50 | \$6,156.89 | \$74,199.61 |

Table 4. Fee impacts of rule cost distribution by plastic resin weights compared to the mean resin weight value among all producers, compared to an equal fee for each producer, based on ongoing annual cost estimates from the fiscal note:

| <i>Above/Below Mean Weight?</i> | Number of Producers | Average Fee (Rule-Based Calculation) | Average Fee Based on Number of Producers Only | Average Fee Cost Impact of Rule |
|---------------------------------|---------------------|--------------------------------------|---|---------------------------------|
| <i>Above</i> | 21 | \$26,997.82 | \$6,156.89 | \$20,840.93 |
| <i>Below</i> | 87 | \$1,126.32 | \$6,156.89 | -\$5,030.57 |

3.2.5 Establishing requirements for temporary exclusion and adjustment requests: We expect this section of the proposed rule to result in costs for producers related to providing the necessary documentation in support of exclusions and adjustment requests. We note that businesses or industries would undertake these activities only if they expected a net benefit (a net cost-savings) of doing so, either due to avoiding noncompliance or avoiding lost sales due to necessary changes in products and/or business practices to comply.

Temporary exclusions: Producers may submit an annual temporary exclusion request (RCW 245.70A.20 [70A.245.020]) to ecology to get temporary exclusion from the minimum PCRC requirement for the upcoming year for any types of covered products in plastic containers for which a producer demonstrates that the achievement of PCRC requirement in the container material is not technically feasible to comply with federal health and safety requirements. However, we could not confidently assess how frequently exclusion requests would occur. We assumed that producers would file temporary exclusion requests in two situations: To avoid the noncompliance associated with technical infeasibility, or for very specific types of federally regulated products. As compared to the baseline, temporary exclusion requests would result in minimal additional costs. We estimate an annual cost of approximately \$245 for filling a temporary exclusion request for a single producer.

CalRecycle follows that, at a maximum, 74 percent of affected entities would file for reduction in noncompliance penalties based on producers' progress in meeting PCRC minimum requirements. However, currently, we do not have detailed information regarding technical barriers to achieving minimum PCRC rates. This results in uncertainty about the proportion of affected producers that would benefit from temporary exclusion requests.

To address this uncertainty, we assumed three different scenarios regarding the percentage of producers (75 percent, 50 percent, and 25 percent) that would submit exclusion requests.

In addition, we conducted sensitivity analysis to estimate the increased (decreased) cost due to increase (decrease) in exclusion requests over time. First, we assume that over 20 years, the exclusion request [rate] would drop from 75 percent to five percent (decreases annually by five percent and remains constant once it reaches five percent) and estimate a 20-year present value cost of \$148,836 to \$298,215 for exclusion requests. Similarly, we estimate a 20-year present value annual cost of \$471 to \$972,411 for exclusion requests assuming exclusion requests increase from 75 percent up to 95 percent (increase annually by five percent and remains constant once it reaches 95 percent) over 20 years.

Adjustments: Producers or PCRC product industry representatives may annually submit requests for consideration by ecology to temporarily adjust the annual PCRC minimum percentages for the following year. However, this adjustment request would occur no more frequently than annually, and the activity would start beginning January 1, 2024, or when rule making is complete, whichever is sooner.

We estimate a total annual cost of approximately \$6,309 for submitting adjustment requests (submitted by an industry group), with an average annual cost of approximately \$25 to \$54 for a single producer. However, producers may ultimately submit one element of the activities listed in the above table, or a subset of these research activities (b-e in the table above), depending on the nature of their reason for submitting an adjustment request. This means our estimates are likely to be overestimates of actual costs of adjustment requests.

We estimate the 20-year present value of adjustment request costs for industries with producers of covered products, across all product categories, as about \$116,140. Based on this, we estimated the 20-year present value adjustment request costs per producer of about \$457 (low) to \$960 (high) on average.

COSTS OF COMPLIANCE: PROFESSIONAL SERVICES: Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of professional services.

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

COSTS OF COMPLIANCE: OTHER: 3.2.6 Limit timing for providing necessary audit documentation: This section of the proposed rule would facilitate producers providing audit documents with enough information for ecology to efficiently verify compliance status without delays (within 30 days, compared to no time limit under the baseline). Producers could incur costs associated with provision of the needed documentation within the time limit, relative to when they might submit it under the baseline. We note that the proposed rule does not add requirements regarding what information must be provided during audits, just that it must be provided by the time limit. If producers were to provide documentation within 30 days under the baseline, regardless, this section of the proposed rule would not have any impacts.

We could not confidently assess how frequently this element of the proposed rule would result in avoided delays in provision of audit information, or the degree to which delays would be reduced. We note, however, these would not be significant additional costs, as compared to the baseline, but rather opportunity costs of equivalent expenditures at different times.

3.2.7 Specifying procedures for warnings and penalties for non-compliance: We expect this section of the proposed rule to result in benefits of clear expectations of how many notices ecology will send

before taking further enforcement action. As a result, it potentially affects the timing of when producers incur the costs of coming into compliance.

We could not confidently assess how frequently noncompliance would occur and result in multiple warnings and/or penalties, or the degree of noncompliance (and associated costs of coming into compliance). We note, however, these would not be significant additional costs, as compared to the baseline, but rather opportunity costs of expenditures at different times, as producers would be expected to comply under the baseline regardless of the proposed rule.

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.

Businesses that are most likely required to comply with the rule are larger businesses that own brands for beverages, household cleaners, personal care products, and trash bags. There are fewer small businesses (companies that have 50 or fewer employees) that have their own brand, sell more than \$1 million or one ton of plastic resin in Washington state (exceeding the de minimis threshold) to be impacted by the rule.

The average affected small business likely to be covered by the proposed rule employs approximately 17 people. The largest 10 percent of affected businesses employ an average of 12,165 people. Based on cost estimates in Chapter 3, we estimated the following compliance costs per employee.

Table 5. Compliance costs per employee:

| <i>Type of cost (or total cost)</i> | Low | High |
|---|----------------|----------------|
| <i>Small business cost per employee</i> | \$2,136 | \$6,113 |
| <i>Largest business cost per employee</i> | \$2.99 | \$8.54 |

We conclude that the proposed rule is likely to have disproportionate impacts on small businesses, and therefore ecology must include elements in the proposed rule to mitigate this disproportion, where legal (including the stated objectives of the law on which the rule is based) and feasible.

CONSIDERATION OF LOST SALES OR REVENUE: Businesses that would incur costs 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 (e.g., price levels and wages, employment, purchases of inputs and services, population, and labor force attributes) throughout the economy. The model accounts for: Interindustry impacts; price, wage, and population changes; and dynamic adjustment of all economic variables over time.

The results of the REMI E3+ model show that the rule would minimally impact a variety of businesses (see 7.6 below) and that it would initially cost less than \$1,000,000 in output (total amount of goods and services produced by Washington businesses) across all sectors in

the state annually. This would be a minor annual impact to output from directly impacted industries and would not significantly affect total statewide output across all industries.¹ While industries would incur direct costs of compliance, which would put downward pressure on their output, these impacts would not significantly differ from their baseline output. The table below lists the percentage impacts to output, as compared to the baseline, reflecting impacts between zero percent and about 1/100th of one percent.

Table 6. Impact to the value of statewide and industry output:

| <i>Industry</i> | Initial Output Impact | Output Impact in 10 Years | Output Impact in 20 Years |
|--|-----------------------|---------------------------|---------------------------|
| <i>All industries</i> | 0.00% | 0.00% | 0.00% |
| <i>Soap, cleaning compound, and toilet preparation manufacturing</i> | 0.00% | -0.001% | -0.001% |
| <i>Plastics product manufacturing</i> | 0.00% | -0.001% | -0.001% |

MITIGATION OF DISPROPORTIONATE IMPACT: RFA 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 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.

Modifying regulatory requirements, changing reporting requirements, reducing the frequency of inspections, or delaying compliance timetables would not meet statutory objectives or are not feasible and within the scope of this rule making.

Finally, we included the following elements of the law, in the proposed rule, to reduce costs to small businesses. Businesses are not required to meet annual reporting, PCRC, or fee requirements of covered products if they are below the de minimis threshold. The de minimis threshold considers sales, distribution, or import in or into Washington that:

- Generates less than \$1,000,000 in gross revenue in a single category of a covered product annually.
- Sells or distributes less than one ton of a single category of a covered product annually.

We note also that to the extent that small producers (in terms of resin weight) are owned by small businesses, their costs would also be smaller. This is particularly the case for fees, which the proposed rule would reduce for small producers, compared to an assumed equal allocation of fees across all producers.

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

- Four informational webinars in February and March 2022.
- Seven rule advisory committee meetings that were open to all interested parties and provided opportunities for comments in April, June, July, and September 2022.
- More than 15 individual meetings requested by stakeholders.
- Seventeen emails to subscriber list and listserv, which had 1,134 subscribers at the time of this analysis.
- Online access to each revised version of the draft rule language with opportunities to provide comments.

NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE: The proposed rule likely impacts the following industries, with associated NAICS codes. NAICS definitions and industry hierarchies are discussed at <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2017>.

311411 Frozen Fruit, Juice, and Vegetable Manufacturing
 311421 Fruit and Vegetable Canning
 311930 Flavoring Syrup and Concentrate Manufacturing
 312111 Soft Drink Manufacturing
 312112 Bottled Water Manufacturing
 722513 Limited-Service Restaurants
 311351 Chocolate and Confectionery Manufacturing from Cacao Beans
 311920 Coffee and Tea Manufacturing
 445298 All Other Specialty Food Retailers
 424490 Other Grocery and Related Products Merchant Wholesalers
 311511 Fluid Milk Manufacturing
 311514 Dry, Condensed, and Evaporated Dairy Product Manufacturing
 424430 Dairy Product (except Dried or Canned) Merchant Wholesalers
 312130 Wineries
 424820 Wine and Distilled Alcoholic Beverage Merchant Wholesalers
 325611 Soap and Other Detergent Manufacturing
 325612 Polish and Other Sanitation Good Manufacturing
 325620 Toilet Preparation Manufacturing
 456120 Cosmetics, Beauty Supplies, and Perfume Retailers
 326111 Plastics Bag and Pouch Manufacturing
 445110 Supermarkets and Other Grocery Retailers (except Convenience Retailers)
 455110 Department Stores

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 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.

The results of the model show an estimated one job lost annually across all industries in Washington from the implementation of this rule. It should be noted that the REMI E3+ model does not account for jobs that may be created because of the overall implementation of the

statutory and rule requirements and estimates employment impacts of only the elements of the rule in which ecology had discretion. Industries outside of those with covered products may be impacted, as the REMI model is a model of the entire state economy. Industries that are typically highly impacted include those with higher sensitivity to changes in prices and market activity, such as construction and local government revenues. As shown in the table below, most of the industries in Washington are minimally impacted by the rule and were modeled to experience job losses of between zero and one full time employee.

We note that the employment impacts above are modeled based only on compliance costs and do not reflect any broader or systemic changes that result from the law or proposed rule. Improvements in local economic activity related to a circular plastics economy would mitigate these estimated losses through employment and economic activity resulting from:

- Plastics recycling and processing.
- Production and marketing of PCR [PCRC] resin.
- PCRC or plastic-alternative packaging.
- Market adjustments to consumer products and their packaging.

¹ REMI E3+ baseline forecast, model version 3.0.0.

A copy of the statement may be obtained by contacting Shannon Jones, Department of Ecology, Solid Waste Management Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-742-9874, email Shannon.Jones@ecy.wa.gov, recycledcontent@ecy.wa.gov.

May 2, 2023
Heather R. Bartlett
Deputy Director

OTS-4533.2

**Chapter 173-925 WAC
POST-CONSUMER RECYCLED CONTENT IN PLASTIC CONTAINERS**

**PART A
GENERAL REQUIREMENTS**

NEW SECTION

WAC 173-925-010 Purpose. (1) Washington state law mandates minimum post-consumer recycled content (PCRC) requirements for plastic beverage containers, trash bags, and household cleaning and personal

care product containers. This requirement supports new and existing end markets for PCRC material and helps ensure that plastic packaging and other packaging materials are reduced, reused, and recycled.

(2) This chapter implements post-consumer recycled content (PCRC), RCW 70A.245.010 through 70A.245.050 and 70A.245.090 (1), (2), and (4).

[]

NEW SECTION

WAC 173-925-020 Applicability. This chapter applies to producers that offer for sale, sell, or distribute in or into Washington state:

- (1) Beverages in plastic containers;
- (2) Plastic trash bags;
- (3) Household cleaning products in plastic containers; or
- (4) Personal care products in plastic containers.

[]

NEW SECTION

WAC 173-925-030 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) (a) **"Beverage"** means liquid products intended for human or animal consumption sold in a quantity more than or equal to two fluid ounces and less than or equal to one gallon. This includes, but is not limited to, any of the following:

- (i) Water and flavored water;
- (ii) Beer or other malt beverages;
- (iii) Distilled spirits;
- (iv) Artificial or nondairy milks and creamers;
- (v) Juices, including those derived from concentrate;
- (vi) Mineral water, soda water, and similar carbonated soft drinks;

- (vii) Dairy milk; or
- (viii) Wine;

(b) "Beverage" does not include:

- (i) Liquid in a concentrated form;
- (ii) Syrup;
- (iii) Powder concentrates or instant drink powders;
- (iv) Infant formula;
- (v) Medical food; or

(vi) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, or other medical conditions.

(2) **"Beverage manufacturing industry"** means an association that represents beverage producers.

(3) **"Biomedical waste"** means, and is limited to, the following types of waste:

(a) "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

(b) "Biosafety level 4 disease waste" is waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the centers for disease control, national institute of health, biosafety in microbiological and biomedical laboratories, current edition.

(c) "Cultures and stocks" are wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes, but is not limited to, culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

(d) "Human blood and blood products" is discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

(e) "Pathological waste" is waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for final disposition.

(f) "Sharps waste" is all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

(3) "**Brand**" means a name, symbol, word, logo, or mark that identifies a product and attributes the product to the brand owner as the producer.

(4) (a) "**Covered products**" means all beverages, trash bags, personal care products, and household cleaning products sold in plastic containers that are subject to, or will become subject to (according to the timeline in WAC 173-925-040 (4)(a)), the requirements of this chapter, including registration, reporting, fee payment, and PCRC minimum percentages.

(b) "Covered products" does not include:

(i) Rigid plastic containers or bottles that are used for the containment, protection, delivery, presentation, or distribution of:

(A) Prescription or nonprescription drugs as defined in RCW 18.64.011(14) and regulated by the United States Food and Drug Administration;

(B) Dietary supplements as defined in this section;

(C) Medical devices or medical products required to be sterile, as regulated by the United States Food and Drug Administration under 21 C.F.R., Parts 200, 300 and 800;

(D) Aerosols in plastic containers that are subject to 49 C.F.R. Sec. 178.33b;

(ii) Plastic trash bags used for biomedical waste as defined in this section;

(iii) Products in containers sufficiently durable for multiple rotations of their original or similar purpose, and are intended to function in a system of reuse; or

(iv) Liners, caps, corks, closures, labels, and other items added externally or internally, but otherwise separate from the structure of the bottle or container.

(5) **"Dairy milk"** means a beverage made exclusively or principally from milk obtained from one or more milk-producing animals. Dairy milk includes, but is not limited to:

(a) Whole milk, low-fat milk, skim milk, cream, half-and-half, condensed milk; or

(b) Cultured or acidified milk, kefir, or eggnog.

(6) (a) **"De minimis producer"** means an entity that annually sells, offers for sale, distributes, or imports in or into the country for sale in or into Washington state:

(i) Less than one ton in aggregate of a single category of covered product each calendar year; or

(ii) A single category of a covered product that in aggregate generates less than \$1,000,000 each calendar year in gross revenue from sales of covered products into Washington state.

(b) These thresholds are to be calculated at the level of the "entity" as defined in subsection (9) of this section.

(c) Meeting the qualifications of de minimis producer in one single category of covered products does not preclude a producer from meeting requirements for other covered product categories for which they are above the de minimis threshold.

(7) **"Department"** means the Washington state department of ecology.

(8) **"Dietary supplement"** as defined by RCW 82.08.0293 means any product, other than tobacco, intended to supplement the diet that:

(a) Contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(b) Is intended for ingestion in tablet, capsule, powder, soft-gel, gel-cap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(c) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(d) "Dietary supplements" does not include a product labeled with both a "supplement facts" box and a "nutrition facts" box.

(9) **"Entity"** means an individual and any form of business enterprise, including all legal entities that are affiliated by common ownership of 50 percent or greater, including parents, franchises, subsidiaries, and commonly owned affiliate companies.

(10) (a) **"Household cleaning products"** means products labeled, marketed, or otherwise indicating that the purpose of the product is to clean, freshen, or remove unwanted substances, such as dirt, stains, and other impurities from possessions, objects, surfaces, interior or exterior structures, textiles, and environments associated with a household. These items include:

(i) Liquid soaps, laundry soaps, detergents, softeners, surface polishes, and stain removers;

(ii) Textile cleaners, carpet and pet cleaners, and treatments;
or

(iii) Other products used to clean or freshen areas associated with a household.

(b) "Household" when used in the term "household cleaning products" denotes products marketed at least in part for residential or individual consumer use, but does not include products marketed solely for use in institutions such as hospitals and schools, or in commercial or industrial settings.

(11) **"Household cleaning and personal care product manufacturing industry"** means an association that represents companies that manufacture household cleaning and personal care products.

(12) **"Infant formula"** means a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.

(13) **"Medical food"** means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

(14) **"Oral nutritional supplement"** means a manufactured liquid, powder capable of being reconstituted, or solid product that contains a combination of carbohydrates, proteins, fats, fiber, vitamins, and minerals intended to supplement a portion of a patient's nutrition intake.

(15) **"Personal care product"** means a product intended or marketed for use to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, including:

(a) Shampoo, conditioner, styling sprays and gels, and other hair care products;

(b) Lotion, moisturizer, facial toner, and other skin care products;

(c) Liquid soap and other body care products; or

(d) Other products used to maintain, improve, alter, or enhance personal care or appearance.

(16) (a) **"Plastic beverage container"** means a factory-sealed bottle or other rigid container that is:

(i) Capable of maintaining its shape when empty;

(ii) Comprised of one or multiple plastic resins; and

(iii) Designed to contain a beverage in a quantity more than or equal to two fluid ounces and less than or equal to one gallon.

(b) Plastic beverage container does not include bladders or pouches that contain a beverage.

(17) **"Plastic household cleaning container and plastic personal care product container"** means a rigid bottle, jug, tube, or other container capable of maintaining its shape when empty and with a neck or mouth narrower than the base of the container, and:

(a) A minimum capacity of eight fluid ounces or its equivalent volume;

(b) A maximum capacity of five fluid gallons or its equivalent volume;

(c) Comprised of one or multiple plastic resins; and

(d) Containing a household cleaning or personal care product.

(18) (a) "**Plastic trash bag**" means a bag that is made of plastic, is at least 0.70 mils thick, and is designed and manufactured for use as a container to hold, store, or transport materials for disposal or recycling. "Plastic trash bag" includes, but is not limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner bag, kitchen bag, or compactor bag.

(b) "Plastic trash bag" does not include compostable bags meeting the requirements of chapter 70A.455 RCW and plastic carryout bags meeting the requirements of chapter 70A.530 RCW.

(19) "**Plastic trash bag manufacturing industry**" means an association that represents companies that manufacture plastic trash bags.

(20) (a) "**Post-consumer recycled content (PCRC)**" means the plastic resin incorporated into plastic packaging or bags for a PCRC product, that is derived specifically from recyclable material generated by households or by commercial or institutional facilities in their role as end users of plastic products and packaging which is no longer used for its intended purpose.

(b) "PCRC" includes returns of material from the distribution chain.

(c) "PCRC" does not include plastic that is separated from the waste stream during manufacturing, such as scrap or other materials that are generated and reused during the same process.

(21) "**PCRC products**" means items in the following categories which are actively required to meet and report PCRC minimum requirements in the product packaging for a given year according to the timeline in WAC 173-925-040 (4) (a):

(a) Beverages in plastic beverage containers;

(b) Plastic trash bags; or

(c) Household cleaning products and personal care products in plastic containers.

(22) "**Producer**" means the entity responsible for compliance with all requirements of this chapter for covered products sold, offered for sale, or distributed in or into Washington state.

(a) The producer of a covered product is the entity that affixes its brand, or specifies that its brand be affixed, to the covered product container or retail packaging, except as follows:

(i) If an entity is a "brand licensor," meaning it has licensed its brand to be used on a covered product that is to be sold by the licensee, then the licensee is the producer.

(ii) If the covered product lacks identification of a brand, the entity that specified the material composition of the covered product packaging is the producer.

(iii) If there is no identifiable person described above, the entity who imports or distributes the covered product in or into the state, including through online sales, is the producer.

(b) Producer does not include:

(i) Government agencies, municipalities, or other political subdivisions of the state;

(ii) Registered 501 (c)(3) charitable organizations and 501 (c)(4) social welfare organizations; or

(iii) De minimis producers as defined in subsection (10) of this section.

(23) "**Resin**" means polymer compounds used to make plastic packaging such as bottles or films.

(24) (a) "**Third-party representative**" means a person acting as agent for a producer for the purpose of registering the producer, sub-

mitting reports, and paying the fees required of the producer by this chapter.

(b) Third-party representatives do not assume full responsibility for compliance as a producer.

(25) "**Ton**" means the United States customary short ton, equal to 2,000 pounds.

(26) "**Workload analysis (WLA)**" means a document posted for public comment each year by January 31st, summarizing the department's estimated costs for the forthcoming fiscal year, July 1st to June 30th of the following year, to implement, administer, and enforce the post-consumer recycled content requirements per RCW 70A.245.020(3).

[]

PART B PRODUCER REGISTRATION AND FEES

NEW SECTION

WAC 173-925-040 Annual registration and reporting requirements.

(1) (a) Producers of covered products distributed, imported, sold, or offered for sale in or into Washington state must annually register using the department's registration and reporting system.

(b) Third-party representatives may submit data on behalf of a producer or group of producers, including information required in subsection (2) of this section for each producer, but the producer as defined in WAC 173-925-030(22) is the party responsible for compliance and subject to potential enforcement actions outlined in WAC 173-925-080 through 173-925-100.

(c) De minimis producers are not required to meet annual registration, reporting, PCRC, or fee requirements of covered products, but must annually indicate their de minimis status in the department's on-line registration and reporting system to notify the department that they meet the de minimis threshold.

(d) If a producer's supplier or distributor entities have agreed to report on behalf of a producer for a subset of the products that would otherwise be attributable to the producer, the category is only considered de minimis if it still meets minimum resin weight or revenue threshold after being added to other product category data provided by the entity as defined in WAC 173-925-030(9).

(2) Producers must annually submit the following registration information to the department:

(a) General information, including:

(i) Producer name, mailing address, website, and tax identification number;

(ii) Contact person name, email, and telephone number; and

(iii) List of all brand and sub-brand names under which the covered products are sold, and, if applicable, any unique tax identification numbers not provided in (a) (i) of this subsection.

(b) Plastic resin data for each covered product category in WAC 173-925-060(1) sold or offered for sale in or into Washington state in the prior calendar year, including total pounds of plastic resin within each covered product category.

(c) Identification and resin weight of PCRC products temporarily excluded from PCRC minimum requirements based on criteria in WAC 173-925-070(1).

(d) Attestation that all reported data accounts for all covered products sold in or into Washington and confirms that the percentage of PCRC calculated for PCRC products sold in Washington is accurately allocated in accordance with subsection (3) of this section.

(3) (a) Producers or representatives reporting on behalf of producers may use national or regional covered product resin data for reporting in subsection (2) of this section. The data must be allocated to Washington on a per capita or other accurate basis for calculation, and the producer or reporting representative must demonstrate that the percentage of PCRC for the product category sold into Washington is the same as the PCRC percentage calculated for the nation or region.

(b) Producers submitting information based on regional or national data in place of Washington state data must account for all products in its calculations and must provide the following to the department:

(i) Justification for using national or regional data instead of state level data; and

(ii) Documentation of the methodology and source data used to prorate the regional or national data.

(4) (a) Producers must annually report PCRC percentages for PCRC products in addition to the covered product registration requirements in subsection (2) of this section, beginning on the following dates:

(i) April 1, 2024, for plastic trash bags and plastic beverage containers other than plastic dairy milk containers and 187 milliliter plastic wine containers; and

(ii) April 1, 2026, for plastic household cleaner and personal care product containers; and

(iii) April 1, 2029, for plastic dairy milk containers and 187 milliliter plastic wine containers.

(b) PCRC annual reports must include:

(i) The amount in pounds of virgin plastic and the amount in pounds of PCRC by resin type used within a single PCRC product category sold, offered for sale, or distributed in or into Washington state; and

(ii) The total PCRC resin as a percentage of the total weight of plastic reported for a single covered product category.

(5) For PCRC annual reports, producers must certify that the PCRC percentages for PCRC products sold, offered for sale, or distributed in or into Washington state comply with the requirements of this chapter. The PCRC certification may include one or both of the following:

(a) Independent third-party certification: Submit to the department the certification from a qualified International Organization for Standardization (ISO) accredited, or other qualified accrediting body subject to department review, with the results of the PCRC analysis for each category of PCRC products; or

(b) Self-certification: Submit to the department attestation that the information reported by the responsible official is true and accurate to the best knowledge of the producer.

(6) (a) If a producer or third-party representative believes the information provided to the department as required by this chapter is

confidential business information (CBI), in whole or in part, they may request that the department treat the information as CBI as provided in RCW 43.21A.160.

(b) The director of the department shall consider requests to treat registration and reporting information as CBI.

(c) A decision by the director of the department to grant protection of CBI will be based upon information provided by the producer sufficient to demonstrate that the release of the information to the public or a competitor may affect adversely the competitive position of the producer.

(d) A decision by the director of the department to grant protection of CBI shall remain effective until a producer is otherwise notified or until additional information is requested by the department.

(7) (a) Registration and reporting as required by the PCRC product category timeline established in subsection (3) (a) of this section is considered delinquent if not completed by April 1st of each calendar year.

(b) Failure to meet the registration and reporting timeline requirements is cause for a notice of noncompliance per WAC 173-925-080 through 173-925-100.

[]

NEW SECTION

WAC 173-925-050 Producer annual fee calculation and payment.

(1) All producers of covered products sold or offered for sale in or into Washington state are required to pay an annual fee calculated by the department based on the department's published workload analysis (WLA) and fee distribution calculations described in this section.

(2) By January 31st of each year, the department will publish for public comment the annual WLA for the next fiscal year (July 1st through June 30th). The WLA provides the department's estimated annual cost in the following two workload categories:

(a) Ecology program administration costs include the department's costs to support producer registration, manage and maintain the registration and reporting system and department website, prepare the annual workload analysis and fee calculation, conduct rule and guideline updates, and implement any requirements that would apply to all producers of covered products, regardless of their PCRC requirements.

(b) Ecology PCRC oversight costs include the department's costs to provide compliance monitoring and technical assistance for producers submitting PCRC product reports required to meet minimum PCRC requirements for the prior calendar year.

(3) (a) Producer fees are calculated based on the producer's reported total pounds of covered product plastic resin data submitted during annual registration or reporting by April 1st, as shown in the calculation formulas below.

(i) Ecology program administration costs are allocated to each producer based on the producer's share of the total pounds of all covered product resin (virgin and PCRC) sold in or offered for sale in or into Washington during the prior calendar year as illustrated in equation 1(a) below.

Equation 1(a), Program Administration Fee

$$\text{Program Administration Fee} = \text{Ecology Program Administration Cost} \times \left[\frac{\text{Individual Producer Resins for Covered Products}}{\text{Washington Resin Totals for Covered Products}} \right]$$

Program Administration Fee = Fee for all producers registered for covered product categories, excluding de minimis producers.

Ecology Program Administration Cost = Estimated annual workload cost for the department to administer the program as a whole, such as producer registration, management and maintenance of the registration and reporting database and department website, preparation of the annual workload analysis and fee calculation, rule and guideline updates, and any requirements that would apply to all producers of covered products.

Individual Producer Resins for Covered Products = One registered producer's total pounds of all plastic resins (PCRC and virgin) used in all covered products sold or offered for sale in Washington state during the previous calendar year.

Washington Resin Totals for Covered Products = Total pounds of all plastic resins (PCRC and virgin) used in all covered products sold or offered for sale in or into Washington state for the prior calendar year.

(ii) Ecology PCRC product oversight costs are allocated based on each producer's share of the total pounds of all plastic resins (PCR and virgin) used in the PCRC product categories sold in or offered for sale in or into Washington state in the prior calendar year as illustrated in equation 1(b) below.

Equation 1(b), PCRC Oversight Fee

$$\text{PCRC Oversight Fee} = \text{Ecology PCRC Oversight Cost} \times \left[\frac{\text{Individual Producer Resins for PCRC Products}}{\text{Washington Resin Totals for PCRC Products}} \right]$$

PCRC Oversight Fee = Fee for producers submitting PCRC reports for PCRC products.

Ecology PCRC Oversight Cost = Estimated annual workload cost for the department to provide compliance monitoring and technical assistance to producers submitting PCRC reports for PCRC products.

Individual Producer Resins for PCRC Products = One registered and reporting producer's total pounds of all plastic resins (PCRC and virgin) used in all PCRC products sold or offered for sale in or into Washington state during the previous calendar year.

Washington Resin Totals for PCRC Products = Total pounds of all plastic resins (PCRC and virgin) used in all PCRC products sold or offered for sale in or into Washington state for the prior calendar year.

(iii) Each producer will be invoiced a Total Producer Fee, based on the sum of the producer's individual Program Administration Fee and PCRC Oversight Fee, as shown in equation 1(c).

Equation 1(c) Total Producer Fee

$$\text{Total Producer Fee} = \text{Program Administration Fee (Equation 1(a))} + \text{PCRC Oversight Fee (Equation 1(b))}$$

Total Producer Fee = Fee for each producer submitting registration and reporting data for covered products. For producers of covered product categories not yet required to submit PCRC reports, the PCRC

oversight fee amount is zero, and only the program administration fee amount applies.

(b) De minimis producers are not required to pay annual fees, and resin data submitted by de minimis producers in their annual de minimis notification is not included in the calculations described above.

(4) (a) The department may adjust annual billing for the following reasons:

(i) Difference between actual revenue and costs for the most recent prior closed fiscal year;

(ii) Registration and reporting data submitted by producers after the April 1st deadline; or

(iii) Revised resin weight data.

(b) Any adjustment to billing as described in (a)(i) of this subsection will be distributed among all producers using their proportions of the total fee amounts from the appropriate billing cycle.

(c) For adjustments made under the conditions of (a)(ii) of this subsection, producers who register or report after April 1st will be billed for the adjusted annual fee in the next billing cycle. The invoice for the next billing cycle will include the fee for that year, plus the adjusted fee for the previous year, for which registration or reporting was submitted late. The fees for producers who had registered by April 1st will be adjusted in the following billing cycle with a credit for their proportionate share, based on individual plastic resin weights, of applied changes resulting from the late registration(s) of other producers.

(d) For adjustments made in response to (a)(iii) of this subsection, fees will not be adjusted for revised resin weight data submitted after April 1st until the following annual billing cycle.

(i) Producers will be responsible for paying the fees calculated using the data submitted for that year.

(ii) Producers will be responsible for ensuring that their data is accurate.

(iii) Resin weight data should be reported in pounds and appropriately prorated when derived from national or regional totals.

(e) In the event that a significant error is discovered, the department will notify producers of the estimated impact for the forthcoming billing cycle.

(5) (a) Producer annual fees are due 30 days after the department sends a billing statement.

(b) Annual fees shall be deemed delinquent if they are not received by the first invoice billing due date.

(c) If a producer's annual fee payment is delinquent, the producer will be notified by certified letter and have 30 days to pay the invoice before the department takes further action.

(d) Accounts that remain delinquent will be submitted to a collection agency. The collection agency will charge the producer a service fee, in addition to the delinquent amount due.

[]

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.

PART C
POST-CONSUMER RECYCLED CONTENT (PCRC) PRODUCTS

NEW SECTION

WAC 173-925-060 PCRC product requirements. (1) Producers must annually meet no less than the minimum PCRC percentages, on average, for the total weight of PCRC product plastic containers sold, offered for sale, or distributed in or into Washington state in their respective PCRC product categories beginning on the dates below:

(a) Beverages, (except those listed in (d) of this subsection):

- (i) January 1, 2023: 15 percent;
- (ii) January 1, 2026: 25 percent; and
- (iii) January 1, 2031: 50 percent.

(b) Plastic trash bags:

- (i) January 1, 2023: 10 percent;
- (ii) January 1, 2025: 15 percent; and
- (iii) January 1, 2027: 20 percent.

(c) Household cleaning and personal care products:

- (i) January 1, 2025: 15 percent;
- (ii) January 1, 2028: 25 percent; and
- (iii) January 1, 2031: 50 percent.

(d) Dairy milk and wine in 187 milliliter plastic beverage containers:

- (i) January 1, 2028: 15 percent;
- (ii) January 1, 2031: 25 percent; and
- (iii) January 1, 2036: 50 percent.

(2) (a) For the purposes of reporting PCRC, producers may calculate resin weight and PCRC percentage from the following sources:

(i) PCRC derived from mechanical recycling using post-consumer materials;

(ii) PCRC from nonmechanical processing of post-consumer materials calculated using an existing and recognized international or multinational third-party certification system which incorporates chain of custody, and certified mass balance attribution as identified in ISO 22095:2020; or

(iii) Other sources or methods that the producer demonstrates to the department to have a comparable degree of accuracy.

(b) Plastic sold or marketed for use as fuel feedstock may not be included in PCRC reports to the department.

[]

NEW SECTION

WAC 173-925-070 Exclusions or adjustments to PCRC requirements.

(1) (a) The department must grant a temporary exclusion from the minimum PCRC requirements for the following year when a producer demonstrates it is technically infeasible to meet minimum PCRC requirements

for a type of covered product while also complying with federal health and safety standards applicable to the product or its packaging. Those federal standards include 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, or other federal laws.

(b) In order for the department to consider and grant temporary exclusions from PCRC minimum percentage requirements producers must annually submit their temporary exclusion request for the coming calendar year to the department by September 1st in order to have a decision from the department by December 31st.

(i) Identifies the applicable health and safety standards that make the achievement of minimum PCRC requirements infeasible for a type of PCRC product; and

(ii) Documents and convincingly supports, with validated testing data or the sworn declaration of a qualified engineer, as appropriate, the producer's claim that it is technically infeasible to meet the minimum PCRC requirements during the following year while still meeting applicable federal health and safety standards.

(c) The producer's annual request must also include:

(i) Producer name, mailing address, and contact information;

(ii) Products and brand names for which the exclusion is requested;

(iii) Total resin weight of PCRC products estimated to be sold, offered for sale, or distributed in or into Washington for which the producer requests temporary exclusion from PCRC requirements.

(d) Federal regulations cited must be specific to the material composition of the packaging or trash bag material.

(e) The weight of any PCRC products that are granted the temporary exclusion according to this subsection must still be included in the producer's reported total pounds of resin.

(2) (a) By January 1st of each year, the department may review and determine temporary adjustments to the annual PCRC minimum percentage required for a type of container, PCRC product, or PCRC product category for the following calendar year.

(b) By April 1st, producers or PCRC product industry representatives may annually submit requests for consideration by the department to temporarily adjust the annual PCRC minimum percentages for the following year. These requests must provide the following information:

(i) Producer name, mailing address, and contact information;

(ii) Year(s) for which the temporary adjustment is requested;

(iii) A thorough explanation by qualified experts supporting the producer's or PCRC product manufacturing industry's claim that a temporary adjustment to the minimum PCRC percentage for a type of container, PCRC product, or PCRC product category is needed;

(iv) Supporting documentation including changes in market conditions, recycling collection rates, product quality or shelf life issues, production line issues, capacity of recycling and processing infrastructure, domestic and global PCRC resin bale availability, transportation barriers, public health emergencies, work stoppages, catastrophic events, and/or other relevant factors;

(v) Progress made by the producers of PCRC products in achieving the requirements of this chapter;

(vi) Estimated time period that the identified factors impacting PCRC minimum feasibility are expected to extend; and

(vii) Any additional information the producer or the department deems necessary and relevant to support the basis for the request.

(c) For household cleaning product and personal care product containers, temporary adjustments may not be lower than 10 percent.

(d) For plastic trash bags the PCRC minimum percentage requirement may not be adjusted below the minimum requirements.

(e) For all PCRC product categories, annual adjustments may not exceed the minimum requirement for the current reporting year.

(3) Producers granted a temporary exclusion or adjustment to the PCRC requirements must continue to register, report, and pay fees according to the requirements of covered products in WAC 173-925-040 and 173-925-050.

(4) A producer or the manufacturing industry for a PCRC product may appeal a decision by the department pursuant to this subsection to the pollution control hearings board within 30 days of the department's determination, pursuant to chapter 43.21B RCW.

[]

PART D ENFORCEMENT

NEW SECTION

WAC 173-925-080 Penalties and audits by the department. (1) Any producer that does not meet the registration, reporting, or PCRC minimum requirements of this chapter is subject to penalties as specified in WAC 173-925-090 and 173-925-100.

(2) The department may conduct audits and investigations for the purpose of ensuring producer compliance.

(a) In the event of an audit, producers must provide documents to the department within 30 days of the request.

(b) Audit materials the department requests from producers may include documents and records that:

(i) Verify reported PCRC percentage data;

(ii) Confirm reported pounds of plastic resin by product type sold, offered for sale, or distributed in or into Washington state;

(iii) Demonstrate producer de minimis status;

(iv) Verify the national or regional data used to determine reported plastic resin; and

(v) Additional information requested by the department pertinent to verifying compliance with this chapter.

[]

NEW SECTION

WAC 173-925-090 Noncompliance warnings and penalties. (1) If the department determines that a producer is out of compliance with the registration or reporting requirements of this chapter, the department will notify the producer in writing.

(a) The first written notice of noncompliance to the producer serves as a notice of the violation. That notice will be mailed to the producer by certified mail. The notice will outline the actions required by the producer to come into compliance within 30 days of certified mail receipt of the notice.

(b) Failure of the producer to comply within 30 days of receiving the first notice will result in the department sending a second notice by certified mail.

(c) The department must send two notices prior to assessing a penalty for noncompliance. The department may assess the producer a penalty up to \$1,000 for each day of noncompliance beginning with the first day of noncompliance recorded in the first notice.

(d) Failure to comply with the penalty notice may result in additional action by the department.

(2)(a) Producer PCRC penalty notifications will be mailed to the producer by certified mail.

(b) Penalties may be appealed to the pollution control hearings board within 30 days from the certified mail stamped receipt date to pay the PCRC penalty receipt, pursuant to chapter 43.21B RCW.

[]

NEW SECTION

WAC 173-925-100 Minimum PCRC penalties. (1) If the department determines that a producer is out of compliance with the minimum PCRC requirements of this chapter, the department will notify the producer in writing.

(a) The department will use the producer's reported PCRC data to determine compliance status and may use information obtained through an audit.

(b) Each PCRC product category's minimum PCRC percentage rates as outlined in WAC 173-925-060(1) apply to the penalty amounts assessed.

(c) The following producer-reported data by covered product category will be used to calculate penalties for noncompliance in accordance with equations in (d) of this subsection:

(i) Total pounds of all plastic resin;

(ii) Total pounds of PCRC plastic resin by type.

(d) Penalties will use the following formulas by PCRC product category:

(i) Equation A - Determine actual PCR rate achieved:

$$\text{Total pounds of PCRC plastic resin} / \text{total pounds of all plastic resin} = \text{Actual PCRC rate achieved}$$

(ii) Equation B - Determine PCRC penalty:

$$[(\text{Total pounds of all plastic resin} \times \text{minimum PCRC rate}) - (\text{Total pounds of all plastic resin} \times \text{actual PCRC rate achieved})] \times 20 \text{ cents} = \text{PCRC penalty}$$

(e) The department will calculate producer PCRC penalties by June of each year based on the PCRC minimum dates outlined in WAC 173-925-060(1).

(f) Producer PCRC penalty notifications will be mailed to the producer by certified mail.

(g) Penalties may be appealed to the pollution control hearings board within 30 days from the certified mail stamped receipt date to pay the PCRC penalty receipt, pursuant to chapter 43.21B RCW.

(2) (a) Producers may request penalty reductions or alternatives to PCRC minimum penalties to be considered by the department based on the information provided in the producer request that describes the following factors:

(i) Documentation of anomalous market conditions, including disruption in, or lack of supply of recycled plastics;

(ii) Date the product was manufactured, showing that the production preceded the PCRC minimum requirements for that PCRC product category;

(iii) Unforeseen circumstances such as a public health emergency, natural disaster, or state of emergency; or

(iv) Other relevant and documented factors that a producer deems has prevented them from meeting the requirements.

(b) Producers may submit a request to the department to implement a corrective action plan in lieu of or in addition to assessing a penalty under this section. The corrective action plan details how the producer will come into compliance with the requirements of this chapter.

(c) Producers may submit a request to the department for a penalty payment plan or extension of the penalty payment deadline.

(3) Penalties may be appealed to the pollution control hearings board, pursuant to chapter 43.21B RCW.

[]

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.

WSR 23-10-063

PROPOSED RULES

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2023-01—Filed May 2, 2023, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-076.

Title of Rule and Other Identifying Information: Revising WAC 182-30-100 When may a school employee enroll, or revoke an election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP)?, 182-31-030 What are the obligations of a school employees benefits board (SEBB) organization in the application of school employee eligibility?, and 182-31-080 When may a school employee waive enrollment in school employees benefits board (SEBB) medical and when may they enroll in SEBB medical after having waived enrollment?

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend some of the existing rules to support the SEBB program:

1. Make technical amendments:

- Amended WAC 182-30-100 to move notes to subsection (2) and add language to address when a school employee who enrolls in a high deductible health plan with a health savings account during the annual open enrollment and has a carryover amount from a medical flexible spending arrangement.
- Amended WAC 182-31-080 to clarify when a school employee may waive enrollment in SEBB medical.

2. Amend rules to improve the administration of the SEBB program:

- Amended WAC 182-31-030 to add a new requirement that a SEBB organization must assist a school employee in determining whether or not the school employee or their dependent has experienced an event that creates a special open enrollment.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023
Wendy Barcus
Rules Coordinator

OTS-4506.2

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

WAC 182-30-100 When may a school employee enroll, or revoke an election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP)? A school employee who is eligible to participate in the salary reduction plan as described in WAC 182-31-060 may enroll, or revoke their election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP) at the following times:

(1) When newly eligible under WAC 182-31-040 and enrolling as described in WAC 182-30-080(1).

(2) **During annual open enrollment:** An eligible school employee may elect to enroll in or opt out of participation under the premium payment plan during the annual open enrollment by submitting the required form to their school employees benefits board (SEBB) organization. An eligible school employee may elect to enroll or reenroll in the medical FSA, limited purpose FSA, DCAP, or both an FSA and DCAP during the annual open enrollment by submitting the required forms to their SEBB organization or applicable contracted vendor as instructed. All required forms must be received no later than the last day of the

annual open enrollment. The enrollment or new election becomes effective January 1st of the following year.

((Note: 1. School employees cannot enroll in a medical FSA and a limited purpose FSA in the same year.
2. School employees enrolled in a high deductible health plan (HDHP) with a health savings account (HSA) cannot also enroll in a medical FSA in the same plan year. School employees who elect enrollment in the HDHP with a HSA and a medical FSA will instead be enrolled in a limited purpose FSA.
3. School employees who are not enrolled in a HDHP with a HSA and elect both a medical FSA and a limited purpose FSA will be enrolled in the medical FSA.))

(a) School employees cannot enroll in a medical FSA and a limited purpose FSA in the same year.

(b) School employees enrolled in a high deductible health plan (HDHP) with a health savings account (HSA) cannot also enroll in a medical FSA in the same plan year. School employees who elect enrollment in the HDHP with a HSA and a medical FSA will only be enrolled in a HDHP with a HSA.

(c) If a school employee enrolls in a HDHP with a HSA during annual open enrollment and has a carryover amount from a medical FSA, the school employee will be enrolled in a limited purpose FSA and the carryover amount will be deposited into the limited FSA.

(d) School employees who are not enrolled in a HDHP with a HSA and elect both a medical FSA and a limited purpose FSA will be enrolled in the medical FSA.

(3) **During a special open enrollment:** A school employee who is eligible to participate in the salary reduction plan may enroll or revoke their election and make a new election under the premium payment plan, medical FSA, limited purpose FSA, or DCAP outside of the annual open enrollment if a special open enrollment event occurs. The enrollment or change in election must be allowable under Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment. To make a change or enroll, the school employee must submit the required form to their SEBB organization. The SEBB organization must receive the required form and evidence of the event that created the special open enrollment no later than 60 days after the event occurs.

For purposes of this section, an eligible dependent includes any person who qualifies as a dependent of the school employee for tax purposes under IRC 26 U.S.C. Sec. 152 without regard to the income limitations of that section. It does not include a state registered domestic partner unless the state registered domestic partner otherwise qualifies as a dependent for tax purposes under IRC 26 U.S.C. Sec. 152.

(a) **Premium payment plan.** A school employee may enroll or revoke their election and elect to opt out of the premium payment plan when any of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or election to opt out will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) School employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership when the dependent is a tax dependent of the school employee;

- Birth, adoption, or when the school employee has assumed a legal obligation for total or partial support in anticipation of adoption; or

- A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) School employee's dependent no longer meets SEBB eligibility criteria because:

- School employee has a change in marital status;

- School employee's domestic partnership with a state registered domestic partner who is a tax dependent is dissolved or terminated;

- An eligible dependent child turns age 26 or otherwise does not meet dependent child eligibility criteria;

- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or

- An eligible dependent dies.

(iii) School employee or a school employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by Health Insurance Portability and Accountability Act (HIPAA);

(iv) School employee has a change in employment status that affects the school employee's eligibility for their employer contribution toward their employer-based group health plan;

(v) The school employee's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution toward their employer-based group health plan;

Exception: As used in (a)(v) of this subsection, "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(vi) School employee or a school employee's dependent has a change in enrollment under an employer-based group health plan during its annual open enrollment that does not align with the SEBB annual open enrollment;

(vii) School employee or a school employee's dependent has a change in residence that affects health plan availability;

(viii) School employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States, and that change in residence resulted in the dependent losing their health insurance;

(ix) A court order requires the school employee or any other individual to provide insurance coverage for an eligible dependent of the school employee (a former spouse or former state registered domestic partner is not an eligible dependent);

(x) School employee or a school employee's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the school employee or a school employee's dependent loses eligibility for coverage under medicaid or CHIP;

(xi) School employee or a school employee's dependent becomes eligible for state premium assistance subsidy for SEBB health plan coverage from medicaid or CHIP;

(xii) School employee or a school employee's dependent enrolls in coverage under medicare or the school employee or a school employee's dependent loses eligibility for coverage under medicare;

(xiii) School employee or a school employee's dependent's current medical plan becomes unavailable because the school employee or enrolled dependent is no longer eligible for a HSA. The HCA may require

evidence that the school employee or a school employee's dependent is no longer eligible for a HSA;

(xiv) School employee or a school employee's dependent experiences a disruption of care for active and ongoing treatment, that could function as a reduction in benefits for the school employee or a school employee's dependent. The school employee may not change their health plan election if the school employee's or dependent's physician stops participation with the school employee's health plan unless the SEBB program determines that a continuity of care issue exists. The SEBB program will consider but not limit its consideration to the following:

- Active cancer treatment such as chemotherapy or radiation therapy;
- Treatment following a recent organ transplant;
- A scheduled surgery;
- Recent major surgery still within the postoperative period; or
- Treatment for a high-risk pregnancy.

(xv) School employee or school employee's dependent becomes eligible and enrolls in a TRICARE plan, or loses eligibility for a TRICARE plan.

(xvi) Subscriber has a change in employment from a SEBB organization to a public school district that results in the subscriber having different medical plans available, and the subscriber changes their election. The subscriber may change their election if the change in employment causes:

- The subscriber's current medical plan to no longer be available, in this case the subscriber may select from any available medical plan; or
- The subscriber has one or more new medical plans available, in this case the subscriber may select to enroll in a newly available plan.
- As used in this subsection the term "public school district" shall be interpreted to not include charter schools and educational service districts.

If the school employee is having premiums taken from payroll on a pretax basis, a medical plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

(b) **Medical FSA and limited purpose FSA.** A school employee may enroll or revoke their election and make a new election under the medical FSA or limited purpose FSA when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or new election will be effective the first day of the month following the later of the event date or the date the required form and evidence of the event that created the special open enrollment is received by the SEBB organization. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) School employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership when the dependent is a tax dependent of the school employee;

- Birth, adoption, or when the school employee has assumed a legal obligation for total or partial support in anticipation of adoption; or

- A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) School employee's dependent no longer meets SEBB eligibility criteria because:

- School employee has a change in marital status;

- School employee's domestic partnership with a state registered domestic partner who qualifies as a tax dependent is dissolved or terminated;

- An eligible dependent child turns age 26 or otherwise does not meet dependent child eligibility criteria;

- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or

- An eligible dependent dies.

(iii) School employee or a school employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by HIPAA;

(iv) School employee or a school employee's dependent has a change in employment status that affects the school employee's or a dependent's eligibility for the medical FSA or limited purpose FSA;

(v) A court order requires the school employee or any other individual to provide insurance coverage for an eligible dependent of the school employee (a former spouse or former state registered domestic partner is not an eligible dependent);

(vi) School employee or a school employee's dependent enrolls in coverage under medicaid or CHIP, or the school employee or a school employee's dependent loses eligibility for coverage under medicaid or CHIP;

(vii) School employee or a school employee's dependent enrolls in coverage under medicare.

(c) **DCAP.** A school employee may enroll or revoke their election and make a new election under the DCAP when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or new election will be effective the first day of the month following the later of the event date or the date the required form and evidence of the event that created the special open enrollment is received by the SEBB organization. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) School employee acquires a new dependent due to:

- Marriage;

- Registering a state registered domestic partnership if the state registered domestic partner qualifies as a tax dependent of the school employee;

- Birth, adoption, or when the school employee has assumed a legal obligation for total or partial support in anticipation of adoption; or

- A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) School employee or a school employee's dependent has a change in employment status that affects the school employee's or a dependent's eligibility for DCAP;

(iii) School employee or school employee's dependent has a change in enrollment under an employer-based DCAP during its annual open enrollment that does not align with the SEBB annual open enrollment;

(iv) School employee changes dependent care provider; the change to the DCAP election amount can reflect the cost of the new provider;

(v) School employee or school employee's spouse experiences a change in the number of qualifying individuals as defined in IRC 26 U.S.C. Sec. 21 (b) (1);

(vi) School employee's dependent care provider imposes a change in the cost of dependent care; school employee may make a change in the DCAP election amount to reflect the new cost if the dependent care provider is not a qualifying relative of the school employee as defined in IRC 26 U.S.C. Sec. 152.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-168 (Admin #2022-01), § 182-30-100, filed 6/21/22, effective 1/1/23; WSR 21-13-117 (Admin #2021-01.04), § 182-30-100, filed 6/21/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 2020 c 231. WSR 20-16-067 (Admin #2020-04), § 182-30-100, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160 and 2018 c 260. WSR 20-01-082, § 182-30-100, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-30-100, filed 7/1/19, effective 8/1/19. Statutory Authority: RCW 41.05.021, 41.05.160 and SEBB policy resolutions. WSR 19-01-055 (Admin #2018-01), § 182-30-100, filed 12/14/18, effective 1/14/19.]

OTS-4508.2

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

WAC 182-31-030 What are the obligations of a school employees benefits board (SEBB) organization in the application of school employee eligibility? (1) All school employees benefits board (SEBB) organizations must carry out all actions, policies, and guidance issued by the SEBB program which are necessary for the operation of benefit plans, education of school employees, claims administration, and appeals process including those described in chapters 182-30, 182-31, and 182-32 WAC. SEBB organizations must:

(a) Use the methods provided by the SEBB program to determine eligibility and enrollment in benefits;

(b) Provide eligibility determination reports with content and in a format designed and communicated by the SEBB program;

(c) Support SEBB program auditing of eligibility and enrollment decisions as needed; and

(d) Carry out corrective action and pay any penalties imposed by the health care authority (HCA) and established by the board when the SEBB organization's eligibility determinations fail to comply with the criteria under these rules.

(2) SEBB organizations must determine school employee eligibility for SEBB benefits and the employer contribution according to the criteria in WAC 182-31-040 and 182-31-050. SEBB organizations must:

(a) Notify newly hired school employees of SEBB program rules and guidance for eligibility and appeal rights;

(b) Inform a school employee in writing whether or not they are eligible for SEBB benefits upon employment. The written notice must include information about the school employee's right to appeal eligibility and enrollment decisions. A school employee eligible for SEBB benefits must have no less than ~~((ten))~~ 10 calendar days after the date of notice to elect coverage;

(c) Routinely monitor all school employees work hours to establish eligibility and maintain the employer contribution toward SEBB benefits;

(d) Identify when a previously ineligible school employee becomes eligible or a previously eligible school employee loses eligibility; and

(e) Inform a school employee in writing whether or not they are eligible for SEBB benefits and the employer contribution whenever there is a change in work pattern such that the school employee's eligibility status changes. Whenever this occurs, SEBB organizations must inform the school employee of the right to appeal eligibility and enrollment decisions. A school employee eligible for SEBB benefits must have no less than ~~((ten))~~ 10 calendar days after the date of notice to elect coverage.

(3) SEBB organizations must determine school employee's dependents eligibility for SEBB benefits according to the criteria in WAC 182-31-140.

(4) SEBB organizations must assist a school employee in determining whether the school employee or their dependent has experienced an event that creates a special open enrollment as described in WAC 182-30-090, 182-30-100, 182-31-080, or 182-31-150, and inform the school employee of the changes they can make consistent with that event.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2020 c 231. WSR 20-16-067 (Admin #2020-04), § 182-31-030, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-31-030, filed 7/1/19, effective 8/1/19. Statutory Authority: RCW 41.05.021, 41.05.160 and SEBB policy resolutions. WSR 19-01-055 (Admin #2018-01), § 182-31-030, filed 12/14/18, effective 1/14/19.]

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

WAC 182-31-080 When may a school employee waive enrollment in school employees benefits board (SEBB) medical and when may they enroll in SEBB medical after having waived enrollment? A school employee may waive enrollment in school employees benefits board (SEBB) medical ~~((only))~~ if they are enrolled in other employer-based group medical, a TRICARE plan, or medicare as described in subsection (1)(a) through (c) of this section. A school employee who waives enrollment in SEBB medical must enroll in SEBB dental, SEBB vision, basic life

insurance, basic accidental death and dismemberment (AD&D) insurance, and employer-paid long-term disability (LTD) insurance. A school employee will also be enrolled in employee-paid LTD insurance automatically unless the school employee declines their employee-paid LTD insurance as described in WAC 182-30-080.

Exception: A school employee may waive their enrollment in SEBB medical to enroll in public employees benefits board (PEBB) medical only if they are enrolled in PEBB dental. A school employee who waives enrollment in SEBB medical to enroll in PEBB medical also waives enrollment in SEBB dental and SEBB vision.

(1) To waive enrollment in SEBB medical, the school employee must submit the required form to their SEBB organization at one of the following times:

(a) **When the school employee becomes eligible:** A school employee may waive SEBB medical when they become eligible for SEBB benefits. The school employee must indicate their election to waive enrollment in SEBB medical on the required form and submit the form to their SEBB organization. The SEBB organization must receive the form no later than 31 days after the date the school employee becomes eligible for SEBB benefits (see WAC 182-30-080). SEBB medical will be waived as of the date the school employee becomes eligible for SEBB benefits.

(b) **During the annual open enrollment:** A school employee may waive SEBB medical during the annual open enrollment. The required form must be received by the school employee's SEBB organization before the end of the annual open enrollment. SEBB medical will be waived beginning January 1st of the following year.

(c) **During a special open enrollment:** A school employee may waive SEBB medical during a special open enrollment only if they are enrolled in other employer-based group medical, a TRICARE plan, or medicare as described in subsection (4) of this section. A special open enrollment event must be an event other than a school employee gaining initial eligibility or regaining eligibility for SEBB benefits.

The school employee must submit the required form to their SEBB organization. The SEBB organization must receive the form no later than 60 days after the event that creates the special open enrollment. In addition to the required form, the school employee must provide evidence of the event that creates the special open enrollment to their SEBB organization.

SEBB medical will be waived the last day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, SEBB medical will be waived the last day of the previous month. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, SEBB medical will be waived the last day of the previous month.

(2) If a school employee waives SEBB medical, the school employee may not enroll dependents in SEBB medical.

(3) Once SEBB medical is waived, the school employee is only allowed to enroll in SEBB medical at the following times:

(a) During the annual open enrollment. The required form must be received by the school employee's SEBB organization before the end of the annual open enrollment. SEBB medical will begin January 1st of the following year.

(b) During a special open enrollment. A special open enrollment allows a school employee to revoke their election and make a new election outside of the annual open enrollment. A special open enrollment may be created when one of the events described in subsection (4) of this section occurs.

The school employee must submit the required form to their SEBB organization. The SEBB organization must receive the form no later than 60 days after the event that creates the special open enrollment. In addition to the required form, the school employee must provide evidence of the event that creates the special open enrollment to the SEBB organization.

SEBB medical will begin the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, coverage is effective on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, SEBB medical for the school employee will begin on the first day of the month in which the event occurs. SEBB medical for the newly born child, newly adopted child, spouse, or state-registered domestic partner will begin as described in WAC 182-31-150 (3) (a) (iv).

If a school employee who is eligible for the employer contribution toward SEBB benefits was enrolled as a dependent in PEBB medical and PEBB dental and is removed by the PEBB subscriber, the health care authority will notify the school employee of their removal from the PEBB subscriber's account and that they have experienced a special enrollment event. The school employee will be required to return from waived enrollment and elect SEBB medical, SEBB dental, and SEBB vision. If the school employee's SEBB organization does not receive the school employee's required forms indicating their medical, dental, and vision elections within 60 days of the school employee losing PEBB medical and PEBB dental, they will be defaulted into employee-only SEBB medical, SEBB dental, and SEBB vision as described in WAC 182-30-080 (1) (b) (i) through (iii).

(4) **Special open enrollment:** Any one of the events in (a) through (k) of this subsection may create a special open enrollment that allows the school employee to enroll in SEBB medical after having waived enrollment. The change in enrollment must be allowable under the Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment for the school employee, the school employee's dependent, or both.

(a) School employee acquires a new dependent due to:

(i) Marriage or registering a state registered domestic partnership;

(ii) Birth, adoption, or when the school employee has assumed a legal obligation for total or partial support in anticipation of adoption; or

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(b) School employee or a school employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) School employee has a change in employment status that affects the school employee's eligibility for their employer contribution toward their employer-based group medical;

(d) The school employee's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group medical;

Note: As used in (d) of this subsection "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(e) School employee or a school employee's dependent has a change in enrollment under an employer-based group medical plan during its annual open enrollment that does not align with the SEBB program's annual open enrollment;

(f) School employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States and that change in residence results in the dependent losing their health insurance;

(g) A court order requires the school employee or any other individual to provide a health plan for an eligible dependent of the school employee (a former spouse or former state registered domestic partner is not an eligible dependent);

(h) School employee or a school employee's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the school employee or a school employee's dependent loses eligibility for coverage under medicaid or CHIP;

Note: A school employee may only return from having waived SEBB medical for the events described in (h) of this subsection. A school employee may not waive their SEBB medical for the events described in (h) of this subsection.

(i) School employee or a school employee's dependent becomes eligible for state premium assistance subsidy for SEBB health plan coverage from medicaid or CHIP;

(j) School employee or a school employee's dependent becomes eligible and enrolls in a TRICARE plan, or loses eligibility for a TRICARE plan;

(k) School employee becomes eligible and enrolls in medicare, or loses eligibility for medicare.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-168 (Admin #2022-01), § 182-31-080, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions SEBB 2021-02, 2021-03, 2021-04, 2021-05, 2021-06, 2021-07, 2021-08, 2021-09, 2021-11. WSR 21-13-115 (Admin #2021-01.02), § 182-31-080, filed 6/21/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 2020 c 231. WSR 20-16-067 (Admin #2020-04), § 182-31-080, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-31-080, filed 7/1/19, effective 8/1/19.]

WSR 23-10-066

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed May 2, 2023, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-02-019.

Title of Rule and Other Identifying Information: WAC 246-803-425 Acupuncture and Eastern medicine practitioner health equity continuing education training requirements. The department of health (department) is proposing new WAC 246-803-425 to establish health equity continuing education (CE) to implement ESSB 5229 (chapter 276, Laws of 2021).

Hearing Location(s): On July 14, 2023, at 1:00 p.m. The department will hold a virtual only hearing. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_0ceYD3dgQ6GvpMlNUk1xVg. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: July 21, 2023.

Submit Written Comments to: Vicki Brown, P.O. Box [47852], Olympia, WA [98504-]7852, email vicki.brown@doh.wa.gov, fax 360-236-2901, by July 14, 2023.

Assistance for Persons with Disabilities: Contact Vicki Brown, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.wa.gov, by June 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department to create model rules establishing minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed for the acupuncture and Eastern medicine practitioners must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The department is proposing new WAC 246-803-425 to implement ESSB 5229 requiring health equity CE. The department is proposing adopting health equity model rules, WAC 246-12-800 through 246-12-830, for acupuncturists or acupuncture and Eastern medicine practitioners to comply with RCW 43.70.613. The proposed rule adds two hours of health equity education to be completed as part of the current CE requirements every four years.

The proposed rule does not change total CE hours but requires two hours in health equity CE every four years which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings includes implicit bias training to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity

training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

Statutory Authority for Adoption: RCW 18.06.160, 43.70.040, 43.70.613, 18.130.040.

Statute Being Implemented: RCW 43.70.613.

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: None.

Name of Proponent: Department of health, acupuncture and Eastern medicine advisory committee, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki Brown, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4865.

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 Vicki Brown, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.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).

Scope of exemption for rule proposal:

Is fully exempt.

May 2, 2023
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-4402.1

NEW SECTION

WAC 246-803-425 Health equity continuing education training requirements. (1) A licensed acupuncturist or acupuncture and Eastern medicine practitioner, must complete two hours of health equity continuing education training every four years as described in WAC 246-12-800 through 246-12-830.

(2) The two hours of health equity continuing education a licensed acupuncturist or acupuncture and Eastern medicine practitioner completes counts toward meeting the applicable continuing education requirements under WAC 246-803-420.

[]

WSR 23-10-067

PROPOSED RULES

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2023-02.01—Filed May 2, 2023, 12:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-077.

Title of Rule and Other Identifying Information: New WAC 182-31-093 School employees benefits board (SEBB) continuation coverage for nonrepresented educational service district (ESD) school employees and their dependents who are not eligible for benefits under the SEBB program as of January 1, 2024, and for dependents who were already on an ESD's or public employees benefits board (PEBB) program's continuation coverage as of December 31, 2023.

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to add a new section to support the SEBB program:

Created WAC 182-31-093 to implement the following SEBB policy resolutions:

- Policy Resolution SEBB 2023-01 SEBB continuation coverage eligibility for nonrepresented ESD school employees not eligible for benefits under the SEBB program.
- Policy Resolution SEBB 2023-02 SEBB continuation coverage for dependents not eligible under the SEBB program.
- Policy Resolution SEBB 2023-03 SEBB continuation coverage for a nonrepresented school employee's dependent who is already on educational service districts' continuation coverage.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160; Policy Resolutions SEBB 2023-01, 2023-02, and 2023-03.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and

Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023
Wendy Barcus
Rules Coordinator

OTS-4509.2

NEW SECTION

WAC 182-31-093 School employees benefits boards (SEBB) continuation coverage for nonrepresented educational service district (ESD) school employees and their dependents who are not eligible for benefits under the SEBB program as of January 1, 2024, and for dependents who were already on an ESD's or public employees benefits board (PEBB) program's continuation coverage as of December 31, 2023. Nonrepresented educational service district (ESD) school employees and their dependents may gain temporary eligibility for school employees benefits board (SEBB) benefits, on a self-pay basis, if they meet the following criteria:

(1) A nonrepresented ESD school employee and their dependents who are enrolled in medical, dental, or vision under a group plan offered by a SEBB organization on December 31, 2023, who lose eligibility because the school employee is not eligible under WAC 182-30-130 or 182-31-040, may elect to continue existing enrollment in one or more of the following SEBB benefits: Medical, dental, or vision coverage. These benefits will be provided for a maximum of 18 months.

(2) A dependent of a SEBB eligible nonrepresented school employee of an ESD who is enrolled in medical, dental, or vision under a school employee's account on December 31, 2023, who loses eligibility because they are not an eligible dependent under WAC 182-31-140 may continue existing enrollment for a maximum of 36 months.

(3) A dependent of a nonrepresented school employee who is continuing medical, dental, or vision coverage through an ESD on December 31, 2023, may elect to continue existing enrollment to finish out their remaining months, up to the maximum number of months authorized by Consolidated Omnibus Budget Reconciliation Act for a similar event, by enrolling in a medical, dental, or vision plan offered through the SEBB program.

(4) The nonrepresented school employee's or the dependent's election must be received by the SEBB program no later than 60 days after January 1, 2024. If the nonrepresented school employee's or a dependent's monthly premium or applicable premium surcharges remain unpaid for 60 days from the original due date, the nonrepresented school employee's SEBB benefits will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid as described in WAC 182-30-040 (1)(c).

[]

WSR 23-10-068

PROPOSED RULES

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2023-02.02—Filed May 2, 2023, 12:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-077.

Title of Rule and Other Identifying Information: Revising WAC 182-30-085 What happens if my health plan becomes unavailable due to a change in contracted service area or eligibility for medicare? and 182-30-090 When may a subscriber change health plans?

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to implement policy resolutions and to make technical amendments to support the SEBB program:

1. Implement SEBB policy resolution:

- Amended WAC 182-30-085 and 182-30-090 to implement Policy Resolution SEBB 2023-04 when a subscriber has a change in residence or employment location that affects medical plan availability.

2. Make other technical amendments:

- Amended WAC 182-30-085 to change the title and update subsections' references within the section.
- Amended WAC 182-30-090 to move the note up to the beginning of subsection (2), clarify when a subscriber may select a dental plan when there is a change in residence, and add a new special enrollment event when the SEBB program determines that there is a substantial decrease in the providers available under a SEBB medical plan.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160; Policy Resolution SEBB 2023-04.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023
Wendy Barcus
Rules Coordinator

OTS-4507.2

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

WAC 182-30-085 What happens if my health plan becomes unavailable (~~due to a change in contracted service area or eligibility for medicare~~)? (1) A subscriber must select a new health plan when their previously selected health plan becomes unavailable due to a change in contracting service area as described below:

(a) When a health plan becomes unavailable during the plan year, a subscriber must elect a new health plan no later than (~~sixty~~) 60 days after the date their previously selected health plan becomes unavailable.

(i) A school employee must submit the required form to their school employees benefits board (SEBB) organization electing their new health plan.

(ii) All other subscribers must submit the required forms to the SEBB program electing their new health plan.

(iii) The effective date of the change in health plan will be the first day of the month following the later of the date the health plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in health plans begins on that day.

(b) When a health plan becomes unavailable at the beginning of the next plan year, a subscriber must elect a new health plan no later than the last day of the SEBB annual open enrollment.

(i) A school employee must submit the required forms to their SEBB organization electing their new health plan.

(ii) Any other subscriber must submit the required forms to the SEBB program electing their new health plan.

(iii) The effective date of the change in health plan will be January 1st of the following year.

(c) A subscriber who fails to elect a new health plan within the required time period as required in (a) or (b) of this subsection will be enrolled in a health plan designated by the director or their designee.

(2) A subscriber must elect a new health plan when their previously selected health plan becomes unavailable due to the subscriber or subscriber's dependent ceasing to be eligible for their current health plan because of enrollment in medicare as described below:

(a) The required forms electing a new health plan must be received no later than ~~((sixty))~~ 60 days after the date their previously selected health plan becomes unavailable.

~~((b))~~ (i) A school employee must submit the required forms to their SEBB organization electing their new health plan.

~~((e))~~ (ii) All other subscribers must submit the required forms to the SEBB program electing their new health plan.

~~((d))~~ (iii) The effective date of the change in their health plan will be the first day of the month following the later of the date the health plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in the health plan begins on that day.

~~((e))~~ (b) A subscriber who is enrolled in a high deductible health plan (HDHP) with a health savings account (HSA), will not be eligible to receive contributions to the HSA, and will be liable for any tax penalties resulting from contributions made when they are no longer eligible.

(3) A subscriber must elect a new medical plan when their previously selected medical plan becomes unavailable due to a change in their residence or employment location as described below:

(a) When a subscriber's medical plan becomes unavailable during the plan year, a subscriber must elect a new medical plan no later than 60 days after the date their previously selected medical plan becomes unavailable as described in WAC 182-30-090 (2) (d) or (f).

(i) A school employee must submit the required forms to their SEBB organization electing their new medical plan.

(ii) Any other subscriber must submit the required forms to the SEBB program electing their new medical plan.

(iii) The effective date of the change in medical plan will be the first day of the month following the later of the date the medical plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in medical plan begins on that day.

(b) A subscriber who fails to elect a new medical plan within the required time period as required in (a) of this subsection will be enrolled in a school employees benefits board medical plan designated by the director or their designee.

(4) A subscriber enrolled in a health plan as described in subsection (1) (c) ~~((or (2) (e)))~~, (2) (b), or (3) (b) of this section may not change health plans except as allowed in WAC 182-30-090.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2020 c 231. WSR 20-16-067 (Admin #2020-04), § 182-30-085, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-30-085, filed 7/1/19, effective 8/1/19.]

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

WAC 182-30-090 When may a subscriber change health plans? A subscriber may change health plans at the following times:

(1) **During the annual open enrollment:** A subscriber may change health plans during the school employees benefits board (SEBB) annual open enrollment period. The subscriber must submit the required enrollment forms to change their health plan. A school employee submits the enrollment forms to their SEBB organization. A subscriber on continuation coverage submits the enrollment forms to the SEBB program. The required enrollment forms must be received no later than the last day of the annual open enrollment. Enrollment in the new health plan will begin January 1st of the following year.

(2) **During a special open enrollment:** A subscriber may revoke their health plan election and make a new election outside of the annual open enrollment if a special open enrollment event occurs. A special open enrollment event must be an event other than a school employee gaining initial eligibility for SEBB benefits as described in WAC 182-31-040 or regaining eligibility for SEBB benefits as described in WAC 182-30-080. The change in enrollment must be allowable under Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependent, or both.

A subscriber may not change their health plan during a special open enrollment if their state registered domestic partner or state registered domestic partner's child is not a tax dependent. A subscriber may change their health plan as described in subsection (1) of this section.

To make a health plan change, a subscriber must submit the required enrollment forms. The forms must be received no later than 60 days after the event occurs. A school employee submits the enrollment forms to their SEBB organization. A subscriber on continuation coverage submits the enrollment forms to the SEBB program. In addition to the required forms, a subscriber must provide evidence of the event that created the special open enrollment. New health plan coverage will begin the first day of the month following the later of the event date or the date the form is received. If that day is the first of the month, the change in enrollment begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, health plan coverage will begin the month in which the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption occurs. If the special open enrollment is due to the enrollment of an extended dependent or a dependent with a disability, the change in health plan coverage will begin the first day of the month following the later of the event date or the eligibility certification. Any one of the following events may create a special open enrollment:

(a) Subscriber acquires a new dependent due to:

(i) Marriage or registering a state registered domestic partnership;

(ii) Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(Note: A subscriber may not change their health plan if their state registered domestic partner or state registered domestic partner's child is not a tax dependent.)

(b) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Subscriber has a change in employment status that affects the subscriber's eligibility for the employer contribution toward their employer-based group health plan;

(d) Subscriber has a change in employment (~~from a SEBB organization to a public school district that results in the subscriber having different medical plans available. The subscriber may change their election if the change in employment causes:~~

~~(i) The subscriber's current medical plan to no longer be available, in this case the subscriber may select from any available medical plan; or~~

~~(ii)) location that affects medical plan availability. If the subscriber changes employment locations and the subscriber's current medical plan is no longer available, the subscriber must select a new medical plan as described in WAC 182-30-085(3). If the subscriber has one or more new medical plans available, ((in this case)) the subscriber may select to enroll in a newly available plan.~~

~~((iii) As used in this subsection the term "public school district" shall be interpreted to not include charter schools and educational service districts.)~~

(e) The subscriber's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group health plan;

Note: As used in (e) of this subsection "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(f) Subscriber or a subscriber's dependent has a change in residence that affects health plan availability.

(i) If the subscriber ((moves)) has a change in residence and the subscriber's current ((health)) medical plan is ((not)) no longer available ((in the new location)), the subscriber must select a new ((health plan, otherwise there will be limited accessibility to network providers and covered services;

Exception: A dental plan is considered available if a provider is located within 50 miles of the subscriber's new residence.)

medical plan, as described in WAC 182-30-085(3).

(ii) If the subscriber or the subscriber's dependent has a change in residence and the subscriber's current dental plan does not have available providers within 50 miles of the subscriber or the subscriber's dependent's new residence, the subscriber may select a new dental plan.

(g) A court order requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(h) Subscriber or a subscriber's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(i) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for SEBB health plan coverage from medicaid or CHIP;

(j) Subscriber or a subscriber's dependent enrolls in coverage under medicare, or the subscriber or a subscriber's dependent loses eligibility for coverage under medicare. If the subscriber's current medical plan becomes unavailable due to the subscriber's or a subscriber's dependent's enrollment in medicare, the subscriber must select a new medical plan as described in WAC 182-30-085(2);

(k) Subscriber or a subscriber's dependent's current medical plan becomes unavailable because the subscriber or enrolled dependent is no longer eligible for a health savings account (HSA). The authority may require evidence that the subscriber or subscriber's dependent is no longer eligible for an HSA;

(l) Subscriber or a subscriber's dependent experiences a disruption of care for active and ongoing treatment that could function as a reduction in benefits for the subscriber or the subscriber's dependent. The subscriber may not change their health plan election if the subscriber's or dependent's physician stops participation with the subscriber's health plan unless the SEBB program determines that a continuity of care issue exists. The SEBB program will consider but not limit its consideration to the following:

(i) Active cancer treatment such as chemotherapy or radiation therapy;

(ii) Treatment following a recent organ transplant;

(iii) A scheduled surgery;

(iv) Recent major surgery still within the postoperative period;

or

(v) Treatment for a high-risk pregnancy.

(m) The SEBB program determines that there has been a substantial decrease in the providers available under a SEBB medical plan.

(3) If the school employee is having premiums taken from payroll on a pretax basis, a medical plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-168 (Admin #2022-01), § 182-30-090, filed 6/21/22, effective 1/1/23; WSR 21-13-117 (Admin #2021-01.04), § 182-30-090, filed 6/21/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 2020 c 231. WSR 20-16-067 (Admin #2020-04), § 182-30-090, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160 and 2018 c 260. WSR 20-01-082, § 182-30-090, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-30-090, filed 7/1/19, effective 8/1/19. Statutory Authority: RCW 41.05.021, 41.05.160 and SEBB policy resolutions. WSR 19-01-055 (Admin #2018-01), § 182-30-090, filed 12/14/18, effective 1/14/19.]

WSR 23-10-070

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed May 2, 2023, 12:35 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: The department of health (department) is proposing amendments to redistribute annual paralytic shellfish poisoning (PSP) testing fees under WAC 246-282-990(4). The proposed amendments apply to harvesters of geoduck who had samples tested in 2022.

Hearing Location(s): On June 7, 2023, at 10:00 a.m. The department will be holding a virtual-only hearing. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_6DNpU3Y0QhWhnG_PEc5I2g. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: Peter Beaton, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, email Peter.beaton@doh.wa.gov, <https://fortress.wa.gov/doh/policyreview/>, by June 7, 2023.

Assistance for Persons with Disabilities: Contact Dani Toepelt, phone 360-236-3347, TTY 711, email danielle.toepelt@doh.wa.gov, by May 24, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to equitably assess the costs of commercial geoduck PSP testing. PSP testing generates \$58,000 in testing fees annually. The fees are calculated by determining the cost per sample and multiplying this value by how many samples each harvester had tested in the previous year. The PSP testing, which is based on the department's risk assessment of the growing areas, is essential to public health as it is the only way to determine if dangerous levels of PSP exist in commercial geoduck clams and ensure toxic shellfish do not reach the public.

Reasons Supporting Proposal: Proposed geoduck PSP fee redistribution is based on the 2022 total cost of service for the harvesters that submitted geoduck samples (\$58,000) and is based on the cost per sample multiplied by the number of tests done for each harvester.

Statutory Authority for Adoption: RCW 43.70.250 and 43.20B.020.

Statute Being Implemented: RCW 43.70.250 and 43.20B.020.

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: None.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Peter Beaton, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4031; Implementation and Enforcement: Dani Toepelt, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3347.

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 agency did not complete a cost-benefit analysis. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

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.

Scope of exemption for rule proposal:

Is fully exempt.

May 2, 2023
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-4372.2

AMENDATORY SECTION (Amending WSR 22-10-050, filed 4/29/22, effective 5/29/22)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

| Type of Operation | Annual Fee |
|--|-------------------|
| Harvester | \$263 |
| Shellstock Shipper | |
| 0 - 49 Acres | \$297 |
| 50 or greater Acres | \$476 |
| Scallop Shellstock Shipper | \$297 |
| Shucker-Packer | |
| Plants with floor space < 2000 sq. ft. | \$542 |
| Plants with floor space 2000 sq. ft. to 5000 sq. ft. | \$656 |
| Plants with floor space > 5000 sq. ft. | \$1,210 |

(2) The fee for each export certificate is \$55.00.

(3) Annual biotoxin testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

| Fee Category | | |
|--------------------------|--------------------------------|------------|
| Type of Operation | Number of Harvest Sites | Fee |
| Harvester | ≤ 2 | \$353 |
| Harvester | 3 or more | \$535 |
| Shellstock Shipper | | \$198 |
| Wholesale Company | | |
| Shellstock Shipper | ≤ 2 | \$393 |
| 0 - 49 acres | | |
| Shellstock Shipper | 3 or more | \$610 |
| 0 - 49 acres | | |

Fee Category

| Type of Operation | Number of Harvest Sites | Fee |
|---|--------------------------------|------------|
| Shellstock Shipper 50 or greater acres | N/A | \$961 |
| Shucker-Packer (plants < 2000 ft ²) | ≤ 2 | \$752 |
| Shucker-Packer (plants < 2000 ft ²) | 3 or more | \$1,076 |
| Shucker-Packer (plants 2000 - 5000 ft ²) | ≤ 2 | \$882 |
| Shucker-Packer (plants 2000 - 5000 ft ²) | 3 or more | \$1,297 |
| Shucker-Packer (plants > 5000 ft ²) | N/A | \$2,412 |

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

(i) At the time of first licensure; or

(ii) January 1st of each year for companies licensed as harvesters; or

(iii) July 1st of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting geoduck are as follows:

| Harvester | Cert # | Fee |
|-----------------------------------|-----------------------|--|
| <u>Chuckanut Shellfish Inc.</u> | <u>WA-1350-HA</u> | <u>\$997</u> |
| Department of Natural Resources | NA | ((\$15,037)) <u>\$13,354</u> |
| Jamestown S'Klallam Tribe | WA-0588-SS | ((\$5,618)) <u>\$4,584</u> |
| Lower Elwha Klallam Tribe | WA-0587-HA | ((\$2,644)) <u>\$2,392</u> |
| Lummi Indian Business Council | WA-0098-SS | ((\$496)) <u>\$399</u> |
| <u>Nisqually Indian Tribe</u> | <u>WA-1268-HA</u> | <u>\$199</u> |
| Port Gamble S'Klallam Tribe | WA-0859-HA | ((\$5,123)) <u>\$3,388</u> |
| Puyallup Tribe of Indians | WA-1137-HA | ((\$4,957)) <u>\$5,381</u> |
| <u>Rising Tide CE, LLC</u> | <u>WA-1951-HA</u> | <u>\$199</u> |
| (Seaproducts, Inc.) | WA-1416-SS | \$661 |
| Skokomish Indian Tribe | WA-0577-HA | \$165) |
| Suquamish Tribe | WA-0694-SS | ((\$5,618)) <u>\$7,175</u> |
| Swinomish Indian Tribal Community | WA-1420-SS | ((\$661)) <u>\$997</u> |
| Taylor Shellfish Company, Inc. | WA-0046-SP | ((\$7,932)) <u>\$9,168</u> |
| The Tulalip Tribes | WA-0997-HA | ((\$9,088)) <u>\$9,766</u> |

(5) Fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

[Statutory Authority: RCW 43.70.250 and 69.30.050. WSR 22-10-050, § 246-282-990, filed 4/29/22, effective 5/29/22; WSR 21-11-080, § 246-282-990, filed 5/18/21, effective 6/18/21; WSR 20-22-001, § 246-282-990, filed 10/21/20, effective 11/21/20; WSR 19-10-026, § 246-282-990, filed 4/23/19, effective 5/24/19; WSR 18-09-067, § 246-282-990, filed 4/16/18, effective 5/17/18; WSR 17-06-062, § 246-282-990, filed 2/28/17, effective 3/31/17. Statutory Authority: RCW 43.70.250 and 60.30.005. WSR 16-07-094, § 246-282-990, filed 3/18/16, effective 4/18/16. Statutory Authority: RCW 43.70.250 and 77.32.555. WSR 16-01-041, § 246-282-990, filed 12/9/15, effective 1/9/16. Statutory Authority: RCW 43.70.250. WSR 15-11-053, § 246-282-990, filed 5/15/15, effective 6/15/15; WSR 14-12-082, § 246-282-990, filed 6/3/14, effective 7/4/14; WSR 13-11-038, § 246-282-990, filed 5/10/13, effective 6/10/13; WSR 12-14-073, § 246-282-990, filed 7/2/12, effective 8/2/12. Statutory Authority: RCW 69.30.030 and 43.20.030. WSR 11-19-011, § 246-282-990, filed 9/7/11, effective 10/8/11. Statutory Authority: RCW 43.70.250. WSR 10-19-034, § 246-282-990, filed 9/9/10, effective 10/10/10; WSR 09-19-067, § 246-282-990, filed 9/14/09, effective 10/15/09; WSR 08-13-067, § 246-282-990, filed 6/13/08, effective 7/14/08; WSR 07-17-159, § 246-282-990, filed 8/21/07, effective 9/21/07; WSR 06-15-131, § 246-282-990, filed 7/19/06, effective 8/19/06; WSR 05-17-120, § 246-282-990, filed 8/17/05, effective 9/17/05; WSR 04-15-154, § 246-282-990, filed 7/21/04, effective 8/21/04; WSR 03-18-093, § 246-282-990, filed 9/2/03, effective 10/3/03. Statutory Authority: RCW 43.70.250 and 34.70.250 [43.70.250]. WSR 03-14-037, § 246-282-990, filed 6/23/03, effective 7/24/03. Statutory Authority: RCW 43.70.250 and the 2002 supplemental operating budget. WSR 02-15-094, § 246-282-990, filed 7/16/02, effective 8/16/02. Statutory Authority: RCW 43.70.250, 70.90.150, and 43.20B.250. WSR 01-14-047, § 246-282-990, filed 6/29/01, effective 7/30/01. Statutory Authority: RCW 69.30.030 and 43.20.030. WSR 01-04-054, § 246-282-990, filed 2/5/01, effective 3/8/01. Statutory Authority: RCW 43.70.250. WSR 00-02-016, § 246-282-990, filed 12/27/99, effective 1/27/00; WSR 99-12-022, § 246-282-990, filed 5/24/99, effective 6/24/99. Statutory Authority: RCW 43.20B.020 and 69.30.030. WSR 98-12-068, § 246-282-990, filed 6/1/98, effective 7/2/98. Statutory Authority: RCW 43.203.020 [43.20B.020]. WSR 97-12-031, § 246-282-990, filed 5/30/97, effective 6/30/97. Statutory Authority: RCW 43.20B.020 and 69.30.030. WSR 96-16-073, § 246-282-990, filed 8/6/96, effective 10/1/96. Statutory Authority: RCW 43.70.040. WSR 93-17-096 (Order 389), § 246-282-990, filed 8/17/93, effective 9/17/93; WSR 91-02-049 (Order 121), recodified as § 246-282-990, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 43.20A.055. WSR 85-12-029 (Order 2236), § 440-44-065, filed 5/31/85; WSR 84-13-006 (Order 2109), § 440-44-065, filed 6/7/84; WSR 83-15-021 (Order 1991), § 440-44-065, filed 7/14/83. Statutory Authority: 1982 c 201. WSR 82-13-011 (Order 1825), § 440-44-065, filed 6/4/82.]

WSR 23-10-071

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Denturists)

[Filed May 2, 2023, 12:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-02-009.

Title of Rule and Other Identifying Information: WAC

246-812-159001 Denturist health equity continuing competency training requirements. The board of denturists (board) is proposing new WAC 246-812-159001 to establish health equity continuing competency (CE) requirements to implement ESSB 5229 (chapter 276, Laws of 2021).

Hearing Location(s): On June 16, 2023, at 12:00 p.m., at Department of Labor and Industries, 7273 Linderson Way S.W., Room 130, Tumwater, WA 98501. Participants can also attend by webinar. Join on your computer, mobile app, or room device [contact agency for link], Meeting ID 211 842 535 413, Passcode hhgZ5g; or call in (audio only), +1 564-999-2000,,187424485# United States, Olympia, Phone Conference ID 187 424 485#.

Date of Intended Adoption: June 16, 2023.

Submit Written Comments to: Vicki Brown, P.O. Box 47852, Olympia, WA 98504-47852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by June 9, 2023.

Assistance for Persons with Disabilities: Contact Vicki Brown, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.wa.gov, by June 9, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to continuing competency to adopt rules requiring a licensee to complete health equity continuing competency training at least once every four years. The statute also directs the department of health (department) to create model rules establishing the minimum standards for health equity CE programs. The department adopted model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed by the board of denturists must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The board is proposing new WAC 246-817-159001 to implement ESSB 5229. The board is proposing adopting the health equity model rules, WAC 246-12-800 through 246-12-830, for denturists to comply with RCW 43.70.613. The proposed rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current continuing competency requirements every four years.

The proposed rule does not change total CE hours but requires two hours in health equity CE every four years which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings include instruction on skills to address structural factors, such as bias, racism, and poverty, that manifests as health inequities. The content of health equity trainings includes implicit bias training to identify strategies to reduce bias during assessment and

diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

Statutory Authority for Adoption: RCW 18.30.065, 43.70.040, 43.70.613, 18.130.040.

Statute Being Implemented: RCW 43.70.613.

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: None.

Name of Proponent: Board of denturists, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki Brown, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4865.

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 Vicki Brown, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4865, fax 360-236-2901, TTY 711, email vicki.brown@doh.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).

Scope of exemption for rule proposal:

Is fully exempt.

April 20, 2023
Trina Crawford
Executive Director
Board of Denturists

OTS-4341.3

NEW SECTION

WAC 246-812-159001 Denturist health equity continuing competency training requirements. (1) A licensed denturist must complete two hours in health equity continuing competency training every four years as described in WAC 246-12-800 through 246-12-830.

(2) The two hours of health equity continuing competency a licensed denturist completes counts toward meeting the applicable continuing competency requirements under WAC 246-812-159.

[]

WSR 23-10-073

PROPOSED RULES

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2023-02.03—Filed May 2, 2023, 12:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-077.

Title of Rule and Other Identifying Information: Revising WAC 182-30-060 How do school employees benefits board (SEBB) organizations and contracted vendors correct enrollment errors? and 182-31-040 How do school employees establish eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and when do SEBB benefits begin?

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend some of the existing rules to support the SEBB program:

1. Implement SEBB policy resolution:

- Amended WAC 182-30-060 and 182-31-040 to add language related to Policy Resolution SEBB 2022-01 when school employees returning to work from active duty.

2. Make technical amendments:

- Amended WAC 182-30-060 to clarify the enrollment is effective when the school employee regained eligibility for basic life, basic accidental death and dismemberment (AD&D), employer-paid long-term disability (LTD) insurance, and employer-paid LTD insurance, supplement life and supplemental AD&D.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160; Policy Resolution SEBB 2022-01.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and

Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023
Wendy Barcus
Rules Coordinator

OTS-4553.1

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

WAC 182-30-060 How do school employees benefits board (SEBB) organizations and contracted vendors correct enrollment errors? (1) A school employees benefits board (SEBB) organization or contracted vendor that makes one or more of the following enrollment errors must correct the error as described in subsections (2) through (5) of this section.

(a) Failure to timely notify a school employee of their eligibility for SEBB benefits and the employer contribution as described in WAC 182-31-030;

(b) Failure to enroll a school employee or their dependents in SEBB benefits as elected by the school employee, if the election was timely;

(c) Failure to enroll a school employee and their dependents in SEBB benefits as described in WAC 182-30-080 (1)(b);

(d) Failure to accurately reflect a school employee's premium surcharge attestation on the school employee's account;

(e) Enrolling a school employee or their dependents in SEBB insurance coverage when they are not eligible as described in WAC 182-31-040 or 182-31-140 and it is clear there was no fraud or intentional misrepresentation by the school employee involved; or

(f) Providing incorrect information, via a benefits administrator or contracted vendor, regarding SEBB benefits to the school employee that they relied upon.

(2) The SEBB organization or the applicable contracted vendor must enroll the school employee and the school employee's dependents, as elected, or terminate enrollment in SEBB benefits as described in subsection (3) of this section, reconcile premium payments and applicable premium surcharges as described in subsection (4) of this sec-

tion, and provide recourse as described in subsection (5) of this section.

(3) **Enrollment or termination.**

(a) SEBB medical, vision, and dental enrollment is effective the first day of the month following the date the enrollment error is identified, unless the authority determines additional recourse is warranted, as described in subsection (5) of this section;

Exception: When a school employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

(b) Basic life, basic accidental death and dismemberment (AD&D), employer-paid long-term disability (LTD) insurance, and employee-paid LTD insurance (unless the school employee declines the employee-paid LTD insurance as described in WAC 182-30-080(1)) enrollment is retroactive to the first day of the month following the day the school employee became newly eligible, or the first day of the month following the date the school employee regained eligibility, as described in WAC 182-30-080;

Exception: When a school employee who is called to active duty in the uniformed services under USERRA loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

(c) Supplemental life, supplemental AD&D, and employee-paid LTD insurance enrollment is retroactive to the first day of the month following the day the school employee became newly eligible if the school employee elects to enroll in this coverage (or if previously elected, the first of the month following the signature date on the school employee's application for this coverage). If a SEBB organization enrollment error occurred when the school employee regained eligibility for the employer contribution following a period of leave as described in WAC 182-30-080(3):

(i) Supplemental life and supplemental AD&D is enrolled the first day of the month following the date the school employee regained eligibility, at the same level of coverage the school employee continued during the period of leave, without evidence of insurability.

(ii) If the school employee was eligible to continue supplemental life insurance and supplemental AD&D insurance during the period of leave but did not, the school employee must provide evidence of insurability and receive approval from the contracted vendor.

(iii) School employees may not continue employee-paid LTD insurance while on leave without pay as described in WAC 182-31-100. Employee-paid LTD insurance is reinstated the first day of the month following the date the school employee regains eligibility, to the level of coverage the school employee was enrolled in prior to the period of leave, without evidence of insurability.

(d) If the school employee is eligible and elects (or elected) to enroll in the medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP), enrollment is limited to 60 days prior to the date enrollment is processed, but not earlier than the current plan year. If a school employee was not enrolled in a medical FSA, limited purpose FSA, or DCAP as elected, the school employee may either participate at the amount originally elected with a corresponding increase in contributions for the balance of the plan year, or participate at a reduced amount for the plan year by maintaining the per-pay period contribution in effect;

(e) If the school employee or their dependent was not eligible but still enrolled as described in subsection (1)(e) of this section,

the employee's or their dependent's SEBB benefits will be terminated prospectively effective as of the last day of the month.

(4) **Premium payments.**

(a) The SEBB organization must remit to the authority the employer contribution and the school employee contribution for health plan premiums, applicable premium surcharges, basic life, basic AD&D, and employer-paid LTD insurance starting the date SEBB benefits begin as described in subsections (3) and (5)(a)(i) of this section. If a SEBB organization failed to notify a newly eligible school employee of their eligibility for SEBB benefits, the SEBB organization may only collect the school employee contribution for health plan premiums and applicable premium surcharges for coverage for the months after the school employee was notified.

(b) When a SEBB organization fails to correctly enroll the amount of employee-paid LTD insurance elected by the school employee, premiums will be corrected as follows:

(i) When additional premiums are due to the authority, the school employee is responsible for premiums for the most recent 24 months of coverage. The SEBB organization is responsible for additional months of premiums; and

(ii) When a premium refund is due to the school employee, the LTD insurance contracted vendor is responsible for premium refunds for the most recent 24 months of coverage. The SEBB organization is responsible for additional months of premium refunds after the 24 months of coverage and the overall refunding process to the school employee.

(c) When a SEBB organization mistakenly enrolls a school employee or their dependents as described in subsection (1)(e) of this section, premiums and any applicable premium surcharges will be refunded by the SEBB organization to the school employee without rescinding the insurance coverage.

(5) **Recourse.**

(a) School employee eligibility for SEBB benefits begins on the first day of the month following the date eligibility is established or the first day of work for school employees who start on or before the first day of school as described in WAC 182-31-040. Dependent eligibility is described in WAC 182-31-140, and dependent enrollment is described in WAC 182-31-150. When retroactive correction of an enrollment error is limited as described in subsection (3)(b), (c), and (d) of this section, the SEBB organization must work with the school employee, and receive approval from the authority, to implement retroactive SEBB benefits within the following parameters:

(i) Retroactive enrollment in a SEBB insurance coverage;

(ii) Reimbursement of claims paid;

(iii) Reimbursement of amounts paid by the school employee or dependent for medical, vision, and dental premiums;

(iv) Reimbursement of amounts paid by the school employee for the premium surcharges;

(v) Other legal remedy received or offered; or

(vi) Other recourse, upon approval by the authority.

(b) Recourse must not contradict a specific provision of federal law or statute and does not apply to requests for noncovered services or in the case of an individual who is not eligible for SEBB benefits.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-168 (Admin #2022-01), § 182-30-060, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions SEBB 2021-11 and 2021-12. WSR 21-13-116 (Admin #2021-01.03), § 182-30-060,

filed 6/21/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and SEBB policy resolution 2020-06. WSR 20-16-066 (Admin #2020-03), § 182-30-060, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-30-060, filed 7/1/19, effective 8/1/19.]

OTS-4560.1

AMENDATORY SECTION (Amending WSR 21-13-116, filed 6/21/21, effective 1/1/22)

WAC 182-31-040 How do school employees establish eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and when do SEBB benefits begin? (1) Eligibility shall be determined solely by the criteria that most closely describes the school employee's work circumstance.

(2) All hours worked by an employee in their capacity as a school employee must be included in the calculation of hours for determining eligibility. All hours for which a school employee receives compensation from a school employees benefits board (SEBB) organization during an approved leave (e.g., sick leave, personal leave, bereavement leave) or a paid holiday must be included when determining how many hours a school employee is anticipated to work, or did work, in the school year.

(3) A school employee may establish eligibility for the employer contribution toward SEBB benefits by stacking of hours from multiple positions within one SEBB organization. A school employee may not gain eligibility by stacking of hours from multiple SEBB organizations.

(4) School employee eligibility criteria shall be determined in the following order:

(a) A school employee is eligible for the employer contribution toward SEBB benefits if they are anticipated to work at least (~~six hundred thirty~~) 630 hours per school year. The eligibility effective date shall be determined as follows:

(i) If the school employee's first day of work is on or after September 1st but not later than the first day of school for the current school year as established by the SEBB organization, they are eligible for the employer contribution on the first day of work; or

(ii) If the school employee's first day of work is at any other time during the school year, they are eligible for the employer contribution on that day.

(b) A school employee is presumed eligible for the employer contribution at the start of the school year, as described in (a) of this subsection, if they:

(i) Worked at least (~~six hundred thirty~~) 630 hours in each of the previous two school years; and

(ii) Are returning to the same type of position (teacher, paraeducator, food service worker, custodian, etc.) or combination of positions with the same SEBB organization.

Note: A SEBB organization rebuts this presumption by notifying the school employee, in writing, of the specific reasons why the school employee is not anticipated to work at least (~~six hundred thirty~~) 630 hours in the current school year and how to appeal the eligibility determination.

(c) A school employee who is not anticipated to work (~~six hundred thirty~~) 630 hours within the school year because of the time of year they are hired but is anticipated to work at least (~~six hundred thirty~~) 630 hours the next school year, establishes eligibility for the employer contribution toward SEBB benefits as of their first working day if they are:

(i) A nine to (~~ten~~) 10 month school employee anticipated to be compensated for at least (~~seventeen and one-half~~) 17.5 hours a week in six of the last eight weeks counting backwards from the week that contains the last day of school; or

(ii) A (~~twelve~~) 12 month school employee anticipated to be compensated for at least (~~seventeen and one-half~~) 17.5 hours a week in six of the last eight weeks counting backwards from the week that contains August 31st, the last day of the school year.

(d) A school employee who returns from approved leave without pay will maintain or establish eligibility for the employer contribution toward SEBB benefits if their work schedule, had it been in effect at the start of the school year, would have resulted in the school employee being anticipated to work the minimum hours to meet SEBB eligibility for the employer contribution in the school year. A school employee who regains eligibility under this subsection, establishes eligibility for the employer contribution toward SEBB benefits as of the date they returned from approved leave without pay.

(5) A school employee who is not anticipated to work at least (~~six hundred thirty~~) 630 hours in the school year as described in subsection (4)(a) of this section, may later be eligible for SEBB benefits when:

(a) Their work pattern is revised in such a way that they are now anticipated to work (~~six hundred thirty~~) 630 hours in the school year. The school employee becomes eligible for the employer contribution toward SEBB benefits on the date their work pattern is revised; or

(b) They actually worked (~~six hundred thirty~~) 630 hours in the school year. The school employee becomes eligible for the employer contribution toward SEBB benefits on the date they actually worked (~~six hundred thirty~~) 630 hours.

(6) If the school employee is not eligible under subsection (4) or (5) of this section, they may be eligible for SEBB benefits if their SEBB organization is engaging in local negotiations regarding eligibility for school employees as described in WAC 182-30-130.

(7) When SEBB benefits begin:

(a) For a school employee who establishes eligibility under subsection (4)(a)(i) of this section, medical, dental, vision, basic life insurance, basic accidental death and dismemberment (AD&D) insurance, employer-paid long-term disability (LTD) insurance, employee-paid LTD insurance (unless the school employee declines the employee-paid LTD insurance as described in WAC 182-30-080(1)), and if eligible, benefits under the salary reduction plan begin on the first day of work for the new school year. Supplemental life insurance and supplemental AD&D insurance begin on the first day of the month following the date the contracted vendor receives the required form or approves the enrollment.

(b) For a school employee who establishes eligibility under subsection (4)(a)(ii), (c), (d), or (5) of this section, medical, dental, vision, basic life insurance, basic AD&D insurance, employer-paid LTD insurance, employee-paid LTD insurance (unless the school employee declines the employee-paid LTD insurance as described in WAC

182-30-080(1)), and if eligible, benefits under the salary reduction plan begin on the first day of the month following the date the school employee becomes eligible for the employer contribution toward SEBB benefits. Supplemental life insurance and supplemental AD&D insurance begin on the first day of the month following the date the contracted vendor receives the required form or approves the enrollment.

Exceptions:

- (1) When a school employee establishes eligibility for the employer contribution toward SEBB benefits as described under subsection (4)(d) or (5) of this section, at any time in the month of August, SEBB benefits begin on September 1st only if the school employee is also determined to be eligible for the employer contribution toward SEBB benefits for the school year that begins on September 1st.
- (2) When a school employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty (see WAC 182-30-080(3)).

[Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions SEBB 2021-11 and 2021-12. WSR 21-13-116 (Admin #2021-01.03), § 182-31-040, filed 6/21/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and SEBB policy resolutions 2020-01, 2020-02, and 2020-05. WSR 20-16-064 (Admin #2020-01), § 182-31-040, filed 7/28/20, effective 8/28/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 3rd sp.s. c 13, 2018 c 260, and SEBB policy resolutions. WSR 19-14-093 (Admin #2019-01), § 182-31-040, filed 7/1/19, effective 8/1/19. Statutory Authority: RCW 41.05.021, 41.05.160 and SEBB policy resolutions. WSR 19-01-055 (Admin #2018-01), § 182-31-040, filed 12/14/18, effective 1/14/19.]

WSR 23-10-074

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[PEBB Admin #2023-01—Filed May 2, 2023, 1:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-074.

Title of Rule and Other Identifying Information: Revising WAC 182-08-197 When must a newly eligible employee, or an employee who re-gains eligibility for the employer contribution, elect public employees benefits board (PEBB) benefits and complete required forms?, 182-08-199 When may an employee enroll, or revoke an election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP)?, 182-08-235 Employer group and board of directors for school districts and educational service districts application process, 182-08-245 Employer group and board members of school districts and educational service districts participation requirements, 182-12-109 Definitions, 182-12-111 Which entities and individuals are eligible for public employees benefits board (PEBB) benefits?, 182-12-113 What are the obligations of a state agency in the application of employee eligibility?, 182-12-123 Is dual enrollment in public employees benefits board (PEBB) and school employees benefits board (SEBB) prohibited?, 182-12-128 When may an employee waive enrollment in public employees benefits board (PEBB) medical and when may they enroll in PEBB medical after having waived enrollment?, 182-12-129 What happens when an employee moves from an eligible to an otherwise ineligible position or job due to a layoff?, 182-12-146 When is an enrollee eligible to continue public employees benefits board (PEBB) benefits under Consolidated Omnibus Budget Reconciliation Act (COBRA)?, 182-12-171 When is a retiring employee or a retiring school employee eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage?, 182-12-200 May a retiring employee, a retiring school employee, or a retiree enrolled as a dependent in a health plan sponsored by public employees benefits board (PEBB), a Washington state educational service district, or school employees benefits board (SEBB) defer enrollment under PEBB retiree insurance coverage?, 182-12-205 May a retiree or a survivor defer enrollment or voluntarily terminate enrollment under public employees benefits board (PEBB) retiree insurance coverage?, 182-12-262 When may subscribers enroll or remove eligible dependents?, and 182-12-265 What options for continuing health plan enrollment are available to a surviving spouse, state registered domestic partner, or child, if an employee, a school employee, or a retiree dies?

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend some of the existing rules to support the PEBB program:

1. Make technical amendments:

- Amended WAC 182-08-197 to move language describing when the subscriber is no longer eligible for the employer contribution to a note.
- Amended WAC 182-08-199 to move notes to subsection (2) and to address employees who enroll in a consumer directed health plan with a health savings account during the annual open enrollment and have a carryover amount from a medical flexible spending arrangement.
- Amended WAC 182-08-235 to clarify employer groups with less than 500 employees, remove educational service district (ESD), and describe TIN.
- Amended WAC 182-08-245 to remove ESD's participation requirements and added notification requirements when an employer group terminates participation in PEBB insurance coverage.
- Amended WAC 182-12-109 to update the definition of school employee.
- Amended WAC 182-12-111 regarding ESD and updated subsections.
- Amended WAC 182-12-123 and 182-12-265 to remove ESD.
- Amended WAC 182-12-128 to clarify when an employee may waive enrollment in PEBB medical.
- Amended WAC 182-12-129 to clarify when the section ceases to apply.
- Amended WAC 182-12-171 and 182-12-205 to clarify procedural requirements for enrolling or deferring PEBB retiree insurance coverage after the employee's own employer-paid coverage ends.
- Amended WAC 182-12-171 to add language when an employee or a school employee must begin receiving monthly retirement plan payments to meet the substantive eligibility requirements and to remove language related to ESDs.
- Amended WAC 182-12-205 to move language in subsection (10) regarding when the subscriber is no longer eligible for the employer contribution towards PEBB benefits to a note.
- Amended WAC 182-12-262 to add an exception when medicare advantage or medicare advantage-prescription drug plan coverage will begin.

2. Improve the administration of the PEBB program:

- Amended WAC 182-12-113 to add a new requirement that state agencies must assist an employee in determining whether or not the employee or their dependent has experienced an event that creates a special open enrollment.
- Amended WAC 182-12-146 to clarify a retired employee who loses eligibility for PEBB retiree insurance coverage because an employer group ceases participation in PEBB insurance coverage may continue PEBB medical, dental, or both on the same terms and conditions as retirees who are eligible under COBRA.
- Amended WAC 182-12-200 to clarify evidence of continuous enrollment in a health plan sponsored by an ESD may be required.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023

Wendy Barcus

Rules Coordinator

OTS-4515.3

AMENDATORY SECTION (Amending WSR 22-13-163, filed 6/21/22, effective 1/1/23)

WAC 182-08-197 When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, elect public employees benefits board (PEBB) benefits and complete required forms? An employee who is newly eligible or who regains eligibility for the employer contribution toward public employees benefits board (PEBB) benefits enrolls as described in this section.

(1) When an employee is newly eligible for PEBB benefits:

(a) An employee must complete the required forms indicating their enrollment elections, including an election to waive enrollment provided the employee is eligible to waive as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency or contracted vendor. Their employing agency or contracted vendor must receive the forms no later than 31 days after the employee becomes eligible for PEBB benefits under WAC 182-12-114.

(i) An employee may enroll in supplemental life insurance up to the guaranteed issue coverage amount without evidence of insurability if the required forms are returned to the employee's employing agency

or contracted vendor as required. An employee may apply for enrollment in supplemental life insurance over the guaranteed issue coverage amount at any time during the calendar year by submitting the required form to the contracted vendor for approval. For an employee who requests a change in their supplemental life insurance after the election period described in this subsection, the change begins the first day of the month following the date the contracted vendor approves the request. An employee may enroll in supplemental accidental death and dismemberment (AD&D) insurance at any time during the calendar year without evidence of insurability by submitting the required form to the contracted vendor.

(ii) Employees are enrolled in employee-paid long-term disability (LTD) insurance automatically. An employee may elect to reduce their employee-paid LTD insurance or decline their employee-paid LTD insurance by returning the form to their employing agency. An employee may apply for a change in their employee-paid LTD insurance at any time during the calendar year by submitting the required form to their employing agency or the contracted vendor. For an employee who requests a change in their employee-paid LTD insurance after the election period described in this subsection, the change begins the first day of the month following the date the employing agency receives the required form requesting to reduce or decline the employee-paid LTD insurance, or the day of the month the contracted vendor approves the required form to increase the employee-paid LTD insurance.

(iii) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116), the employee will automatically enroll in the premium payment plan upon enrollment in PEBB medical allowing medical premiums to be taken on a pretax basis. To opt out of the premium payment plan, a new employee must complete the required form and return it to their state agency. The form must be received by their state agency no later than 31 days after the employee becomes eligible for PEBB benefits.

(iv) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116), the employee may enroll in the state's medical flexible spending arrangement (FSA), limited purpose FSA, dependent care assistance program (DCAP), or both an FSA and DCAP, except as limited by subsection (4) of this section. To enroll in these PEBB benefits, the employee must return the required form to their state agency. The form must be received by the state agency no later than 31 days after the employee becomes eligible for PEBB benefits.

(b) If a newly eligible employee's employing agency, or the authority's contracted vendor in the case of life insurance and AD&D insurance, does not receive the employee's required forms indicating medical, dental, life insurance, AD&D insurance, and LTD insurance elections, and the employee's tobacco use status attestation within 31 days of the employee becoming eligible, their enrollment will be as follows for those elections not received within 31 days:

- (i) A medical plan determined by the health care authority (HCA);
- (ii) A dental plan determined by the HCA;
- (iii) Basic life insurance;
- (iv) Basic AD&D insurance;
- (v) Employer-paid LTD insurance and employee-paid LTD insurance;
- (vi) Dependents will not be enrolled; and
- (vii) A tobacco use premium surcharge will be incurred as described in WAC 182-08-185 (1)(b).

(2) The employer contribution toward PEBB benefits ends according to WAC 182-12-131. When an employee's employment ends, participation in the salary reduction plan ends.

(3) When an employee regains eligibility for the employer contribution toward PEBB benefits, including following a period of leave described in WAC 182-12-133(1), or after being between periods of leave as described in WAC 182-12-142 (1) and (2), or 182-12-131 (3) (e), PEBB medical and dental begin on the first day of the month the employee is in pay status eight or more hours, or the first day of the month in which the quarter or semester begins for faculty who regains eligibility as described in WAC 182-12-131 (3) (e).

Note: When an employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward PEBB benefits, they regain eligibility for the employer contribution toward PEBB benefits the day they return from active duty. Employer-paid PEBB benefits will begin the first day of the month in which they return from active duty.

(a) An employee must complete the required forms indicating their enrollment elections, including an election to waive enrollment if the employee chooses to waive enrollment as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency except as described in (d) of this subsection. Forms must be received by the employing agency, life insurance contracted vendor, or AD&D contracted vendor, if required, no later than 31 days after the employee regains eligibility, except as described in (a)(i) and (b) of this subsection:

(i) An employee who self-paid for supplemental life insurance or supplemental AD&D coverage after losing eligibility will maintain that level of coverage upon return;

(ii) An employee who was eligible to continue supplemental life insurance but discontinued that supplemental coverage must submit evidence of insurability to the contracted vendor if they choose to reenroll when they regain eligibility for the employer contribution;

(iii) An employee who was eligible to continue employee-paid LTD insurance but discontinued that coverage must submit evidence of insurability for employee-paid LTD insurance to the contracted vendor when they regain eligibility for the employer contribution.

(b) An employee or faculty in any of the following circumstances does not have to return a form indicating employee-paid LTD insurance elections. Their employee-paid LTD insurance will be automatically reinstated effective the first day of the month they are in pay status eight or more hours or the first day of the month in which the quarter or semester begins for faculty who regains eligibility as described in WAC 182-12-131 (3) (e):

(i) The employee continued to self-pay for their employee-paid LTD insurance after losing eligibility for the employer contribution;

(ii) The employee was not eligible to continue employee-paid LTD insurance after losing eligibility for the employer contribution.

(c) If an employee's employing agency, or contracted vendor accepting forms directly, does not receive the required forms within 31 days of the employee regaining eligibility, the employee's enrollment for those elections not received will be as described in subsection (1)(b)(i) through (vii) of this section, except as described in (a)(i) and (b) of this subsection.

(d) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116) the employee may enroll in the medical FSA, limited purpose FSA, DCAP, or both an FSA and DCAP, except as limited by subsection (4) of this section. To enroll in these PEBB benefits, the employee must return the required form to the contracted

vendor or their state agency. The contracted vendor or employee's state agency must receive the form no later than 31 days after the employee becomes eligible for PEBB benefits.

(4) If an employee who is eligible to participate in the salary reduction plan (see WAC 182-12-116) is hired into a new position that is eligible for PEBB benefits in the same year, the employee may not resume participation in a DCAP, a medical FSA, or a limited purpose FSA until the beginning of the next plan year, unless the time between employments is 30 days or less and within the current plan year. The employee must notify their new state agency of the transfer by providing the new state agency's personnel, payroll, or benefits office the required form no later than 31 days after the employee's first day of work with the new state agency.

(5) An employee's PEBB benefits elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB benefits for one month or more. This includes movement of an employee between any entities described in WAC 182-12-111 and participating in PEBB benefits. PEBB benefits elections also remain the same when an employee has a break in employment that does not interrupt their employer contribution toward PEBB benefits.

(6) When a retiree becomes eligible for the employer contribution toward PEBB benefits, PEBB retiree insurance coverage will be automatically deferred. The subscriber will be exempt from the deferral form requirement. ~~((When the subscriber is no longer eligible for the employer contribution toward PEBB benefits, they must enroll or defer PEBB retiree insurance coverage as described in WAC 182-12-171, 182-12-200, and 182-12-205.))~~

Note: When the subscriber is no longer eligible for the employer contribution toward PEBB benefits, they may enroll in PEBB retiree insurance coverage as described in WAC 182-12-171, or continue in a deferred status if they meet the requirements in WAC 182-12-200 or 182-12-205.

[Statutory Authority: RCW 41.05.021, 41.05.160, and Policy Resolutions PEBB 2022-01 and 2022-04. WSR 22-13-163 (Admin #2022-02.01), § 182-08-197, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions PEBB 2021-11 and 2021-12. WSR 21-13-103 (Admin #2021-01.03), § 182-08-197, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and PEBB policy resolution 2020-04. WSR 20-16-059 (Admin #2020-01), § 182-08-197, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-197, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-197, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-197, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-197, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-08-197, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-197, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-197, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-08-197, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-08-197, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-08-197, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-08-197, filed 11/17/09, ef-

fective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-08-197, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-08-197, filed 10/3/07, effective 11/3/07; WSR 06-11-156 (Order 06-02), § 182-08-197, filed 5/24/06, effective 6/24/06. Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. WSR 05-16-046 (Order 05-01), § 182-08-197, filed 7/27/05, effective 8/27/05.]

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-08-199 When may an employee enroll, or revoke an election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP)? An employee who is eligible to participate in the salary reduction plan as described in WAC 182-12-116 may enroll, or revoke their election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP) at the following times:

(1) When newly eligible under WAC 182-12-114 and enrolling as described in WAC 182-08-197(1).

(2) **During annual open enrollment:** An eligible employee may elect to enroll in or opt out of participation under the premium payment plan during the annual open enrollment by submitting the required form to their employing agency. An eligible employee may elect to enroll or reenroll in the medical FSA, limited purpose FSA, DCAP, or both an FSA and DCAP during the annual open enrollment by submitting the required forms to their employing agency or applicable contracted vendor as instructed. All required forms must be received no later than the last day of the annual open enrollment. The enrollment or new election becomes effective January 1st of the following year.

(a) Employees cannot enroll in a medical FSA and a limited purpose FSA in the same year.

(b) Employees enrolled in a consumer directed health plan (CDHP) with a health savings account (HSA) cannot also enroll in a medical FSA in the same plan year. Employees who elect enrollment in the CDHP with a HSA and a medical FSA will only be enrolled in a CDHP with a HSA.

(c) Employees who enroll in a CDHP with a HSA during the annual open enrollment and have a carryover amount from a medical FSA, will be enrolled in a limited purpose FSA and the carryover amount will be deposited into the limited purpose FSA.

(d) Employees who are not enrolled in a CDHP with a HSA and elect both a medical FSA and a limited purpose FSA will be enrolled in the medical FSA.

((Notes: 1. Employees cannot enroll in a medical FSA and a limited purpose FSA in the same year.
2. Employees enrolled in a consumer directed health plan (CDHP) with a health savings account (HSA) cannot also enroll in a medical FSA in the same plan year. Employees who elect enrollment in the CDHP with a HSA and a medical FSA will instead be enrolled in the limited purpose FSA.
3. Employees who are not enrolled in a CDHP with a HSA and elect both a medical FSA and a limited purpose FSA will be enrolled in the medical FSA.))

(3) **During a special open enrollment:** An employee who is eligible to participate in the salary reduction plan may enroll or revoke their election and make a new election under the premium payment plan, medical FSA, limited purpose FSA, or DCAP outside of the annual open enrollment if a special open enrollment event occurs. The enrollment or

change in election must be allowable under Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment. To make a change or enroll, the employee must submit the required form to their employing agency. The employing agency must receive the required form and evidence of the event that created the special open enrollment no later than 60 days after the event occurs.

For purposes of this section, an eligible dependent includes any person who qualifies as a dependent of the employee for tax purposes under IRC 26 U.S.C. Sec. 152 without regard to the income limitations of that section. It does not include a state registered domestic partner unless the state registered domestic partner otherwise qualifies as a dependent for tax purposes under IRC 26 U.S.C. Sec. 152.

(a) **Premium payment plan.** An employee may enroll or revoke their election and elect to opt out of the premium payment plan when any of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or election to opt out will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership when the dependent is a tax dependent of the employee;
- Birth, adoption, or when the employee has assumed a legal obligation for total or partial support in anticipation of adoption; or
- A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) Employee's dependent no longer meets public employee benefits board (PEBB) eligibility criteria because:

- Employee has a change in marital status;
- Employee's domestic partnership with a state registered domestic partner who is a tax dependent is dissolved or terminated;
- An eligible dependent child turns age 26 or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

(iii) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iv) Employee has a change in employment status that affects the employee's eligibility for their employer contribution toward their employer-based group health plan;

(v) The employee's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group health plan;

Note: As used in (a)(v) of this subsection, "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(vi) Employee or an employee's dependent has a change in enrollment under an employer-based group health plan during its annual open enrollment that does not align with the PEBB annual open enrollment;

(vii) Employee or an employee's dependent has a change in residence that affects health plan availability;

(viii) Employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States and that change in residence resulted in the dependent losing their health insurance;

(ix) A court order requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(x) Employee or an employee's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(xi) Employee or an employee's dependent becomes eligible for state premium assistance subsidy for PEBB medical plan coverage from medicaid or CHIP;

(xii) Employee or an employee's dependent enrolls in coverage under medicare or the employee or an employee's dependent loses eligibility for coverage under medicare;

(xiii) Employee or an employee's dependent's current medical plan becomes unavailable because the employee or enrolled dependent is no longer eligible for a health savings account (HSA). The health care authority (HCA) requires evidence that the employee or employee's dependent is no longer eligible for an HSA;

(xiv) Employee or an employee's dependent experiences a disruption of care for active and ongoing treatment, that could function as a reduction in benefits for the employee or the employee's dependent. The employee may not change their health plan election if the employee's or dependent's physician stops participation with the employee's health plan unless the PEBB program determines that a continuity of care issue exists. The PEBB program will consider but not limit its consideration to the following:

- Active cancer treatment such as chemotherapy or radiation therapy;

- Treatment following a recent organ transplant;

- A scheduled surgery;

- Recent major surgery still within the postoperative period; or

- Treatment for a high-risk pregnancy.

(xv) Employee or employee's dependent becomes eligible and enrolls in a TRICARE plan, or loses eligibility for a TRICARE plan.

If the employee is having premiums taken from payroll on a pretax basis, a medical plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

(b) **Medical FSA and limited purpose FSA.** An employee may enroll or revoke their election and make a new election under the medical FSA or limited purpose FSA when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or new election will be effective the first day of the month following the later of the event date or the date the required form and evidence of the event that created the special open enrollment is received by the employing agency. If that day is the first of the month, the enrollment or change in

election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership if the domestic partner qualifies as a tax dependent of the employee;
- Birth, adoption, or when the employee has assumed a legal obligation for total or partial support in anticipation of adoption; or
- A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) Employee's dependent no longer meets PEBB eligibility criteria because:

- Employee has a change in marital status;
- Employee's domestic partnership with a state registered domestic partner who qualifies as a tax dependent is dissolved or terminated;
- An eligible dependent child turns age 26 or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

(iii) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the HIPAA;

(iv) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for the medical FSA or limited purpose FSA;

(v) A court order requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(vi) Employee or an employee's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the employee or an employee's dependent loses eligibility for coverage under medicaid or CHIP;

(vii) Employee or an employee's dependent enrolls in coverage under medicare.

(c) **DCAP.** An employee may enroll or revoke their election and make a new election under the DCAP when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or new election will be effective the first day of the month following the later of the event date or the date the required form and evidence of the event that created the special open enrollment is received by the employing agency. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership if the domestic partner qualifies as a tax dependent of the employee;

- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or
- A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for DCAP;

(iii) Employee or an employee's dependent has a change in enrollment under an employer-based DCAP during its annual open enrollment that does not align with the PEBB annual open enrollment;

(iv) Employee changes dependent care provider; the change to the DCAP election amount can reflect the cost of the new provider;

(v) Employee or the employee's spouse experiences a change in the number of qualifying individuals as defined in IRC 26 U.S.C. Sec. 21(b)(1);

(vi) Employee's dependent care provider imposes a change in the cost of dependent care; employee may make a change in the DCAP election amount to reflect the new cost if the dependent care provider is not a qualifying relative of the employee as defined in IRC 26 U.S.C. Sec. 152.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-08-199, filed 6/21/22, effective 1/1/23; WSR 20-16-062 (Admin #2020-03), § 182-08-199, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-199, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-199, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-199, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-199, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-08-199, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-199, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160, 2013 2nd sp.s. c 4 and PEBB policy resolutions. WSR 14-08-040, § 182-08-199, filed 3/26/14, effective 4/26/14. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-199, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-08-199, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-08-199, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-08-199, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-08-199, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-08-199, filed 10/1/08, effective 1/1/09.]

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-08-235 Employer group and board of directors for school districts and educational service districts application process. This section applies to employer groups as defined in WAC 182-08-015 and

board members of school districts and educational service districts. An employer group or board member of a school district or an educational service district may apply to obtain public employees benefits board (PEBB) insurance coverage through a contract with the health care authority (HCA).

(1) Employer groups with less than 500 employees and board members of school districts and educational service districts (~~(with less than 500 employees)~~) must apply at least 60 days before the requested coverage effective date. Employer groups with 500 or more employees but with less than 5,000 employees must apply at least 90 days before the requested effective date.

Employer groups with 5,000 or more employees must apply at least 120 days before the requested coverage effective date.

To apply, employer groups must submit the documents and information described in subsection (2) of this section to the PEBB program as follows:

(a) Board members of school districts and educational service districts (~~(and educational service districts applying for their non-represented employees)~~) are required to provide the documents described in subsection (2) (a) through (c) of this section;

(Exception: Educational service districts required by the superintendent of public instruction to purchase PEBB insurance coverage provided by the authority are required to submit documents and information described in subsection (2)(a)(iii), (b), and (c) of this section.)

(b) Counties, municipalities, political subdivisions, and tribal governments with fewer than 5,000 employees are required to provide the documents and information described in subsection (2) (a) through (f) of this section;

(c) Counties, municipalities, political subdivisions, and tribal governments with 5,000 or more employees will have their application approved or denied through the evaluation criteria described in WAC 182-08-240 and are required to provide the documents and information described in subsection (2) (a) through (d), (f), and (g) of this section; and

(d) All employee organizations representing state civil services employees and the Washington health benefit exchange, regardless of the number of employees, will have their application approved or denied through the evaluation criteria described in WAC 182-08-240 and are required to provide the documents and information described in subsection (2) (a) through (d), (f), and (g) of this section.

(2) Documents and information required with application:

(a) A letter of application that includes the information described in (a) (i) through (iv) of this subsection:

(i) A reference to the group's authorizing statute;

(ii) A description of the organizational structure of the group and a description of the employee bargaining unit or group of nonrepresented employees for which the group is applying;

(iii) (~~(Employer group or board members of school district or educational service district tax ID number (TIN))~~) Tax identification number; and

(iv) A statement of whether the group is applying to obtain only medical or all available PEBB insurance coverages.

Note: (~~(Educational service districts applying for its nonrepresented employees must provide a statement that the group is agreeing to obtain medical, dental, life, and long-term disability insurance. Board members)~~) Boards of directors of school districts or educational service districts must provide a statement that the group is agreeing to obtain medical, dental, and life insurance.

(b) A resolution from the group's governing body authorizing the purchase of PEBB insurance coverage.

(c) A signed governmental function attestation document that attests to the fact that employees for whom the group is applying are

governmental employees whose services are substantially all in the performance of essential governmental functions.

(d) A member level census file for all of the employees for whom the group is applying. The file must be provided in the format required by the authority and contain the following demographic data, by member, with each member classified as employee, spouse or state registered domestic partner, or child:

(i) Employee ID (any identifier which uniquely identifies the employee; for dependents the employee's unique identifier must be used);

(ii) Age;

(iii) Birth sex;

(iv) First three digits of the member's zip code based on residence;

(v) Indicator of whether the employee is active or retired, if the group is requesting to include retirees; and

(vi) Indicator of whether the member is enrolled in coverage.

(e) Historical claims and cost information that include the following:

(i) Large claims history for 24 months by quarter that excludes the most recent three months;

(ii) Ongoing large claims management report for the most recent quarter provided in the large claims history;

(iii) Summary of historical plan costs; and

(iv) The director or the director's designee may make an exception to the claims and cost information requirements based on the size of the group, except that the current health plan does not have a case management program, then the primary diagnosis code designated by the authority must be reported for each large claimant. If the code indicates a condition which is expected to continue into the next quarter, the claim is counted as an ongoing large claim. If historical claims and cost information as described in (e) (i) through (iii) of this subsection are unavailable, the director or the director's designee may make an exception to allow all of the following alternative requirements:

- A letter from their carrier indicating they will not or cannot provide claims data.

- Provide information about the health plan most employees are enrolled in by completing the actuarial calculator authorized by the PEBB program.

- Current premiums for the health plan.

(f) If the application is for a subset of the group's employees (e.g., bargaining unit), the group must provide a member level census file of all employees eligible under their current health plan who are not included on the member level census file in (d) of this subsection. This includes retired employees participating under the group's current health plan. The file must include the same demographic data by member.

(g) Employer groups described in subsection (1)(c) and (d) of this section must submit to an actuarial evaluation of the group provided by an actuary designated by the PEBB program. The group must pay for the cost of the evaluation. This cost is nonrefundable. A group that is approved will not have to pay for an additional actuarial evaluation if it applies to add another bargaining unit within two years of the evaluation. Employer groups of this size must provide the following:

(i) Large claims history for 24 months, by quarter that excludes the most recent three months;

- (ii) Ongoing large claims management report for the most recent quarter provided in the large claims history;
- (iii) Executive summary of benefits;
- (iv) Summary of benefits and certificate of coverage; and
- (v) Summary of historical plan costs.

Exception: If the current health plan does not have a case management program then the primary diagnosis code designated by the authority must be reported for each large claimant. If the code indicates a condition which is expected to continue into the next quarter, the claim is counted as an ongoing large claim.

(3) The authority may automatically deny a group application if the group fails to provide the required information and documents described in this section.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-08-235, filed 6/21/22, effective 1/1/23; WSR 20-16-062 (Admin #2020-03), § 182-08-235, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-235, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-235, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-235, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-235, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-08-235, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-235, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-235, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-08-235, filed 9/25/12, effective 11/1/12.]

AMENDATORY SECTION (Amending WSR 21-13-106, filed 6/18/21, effective 1/1/22)

WAC 182-08-245 Employer group and board members of school districts and educational service districts participation requirements. This section applies to an employer group as defined in WAC 182-08-015 or board members of school districts or educational service districts that is approved to purchase insurance for its employees through a contract with the health care authority (HCA).

(1) Prior to enrollment of employees in public employees benefits board (PEBB) insurance coverage, the employer group or board members of school districts or educational service districts must:

(a) Remit to the authority the required start-up fee in the amount publicized by the PEBB program;

(b) Sign a contract with the authority;

(c) Determine employee and dependent eligibility and terms of enrollment for PEBB insurance coverage by the criteria outlined in this chapter and chapter 182-12 WAC unless otherwise approved by the authority in the employer group's contract with the authority;

(d) Determine eligibility in order to ensure the PEBB program's continued status as a governmental plan under Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended. This means the employer group may only consider employees whose services

are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities, whether or not those activities qualify as essential governmental functions to be eligible; and

(e) Ensure PEBB insurance coverage is the only employer-sponsored coverage available to groups of employees eligible for PEBB insurance coverage under the contract.

(2) Pay premiums under its contract with the authority (~~based on the following premium structure:~~

~~(a) The premium rate structure for educational service districts purchasing PEBB insurance coverage for nonrepresented employees will be a composite rate equal to the rate charged to state agencies plus an amount equal to the employee premium based on health plan election and family enrollment. Educational service districts must collect an amount equal to the premium surcharges applied to an employee's account by the authority from their nonrepresented employees and include the funds in their payment to the authority.~~

Exception: The authority will allow educational service districts that enrolled prior to September 1, 2002, to continue participation based on a tiered rate structure. The authority may require the district to change to a composite rate structure with ninety days advance written notice.

~~(b))~~. The premium rate structure for employer groups (~~other than educational service districts described in (a) of this subsection~~) and board members of school districts and educational service districts will be a tiered rate based on health plan election and family enrollment. Employer groups must collect an amount equal to the premium surcharges applied to an employee's account by the authority from their employees and include the funds in their payment to the authority.

Exception: The authority will allow employer groups that enrolled prior to January 1, 1996, to continue to participate based on a composite rate structure. The authority may require the employer group to change to a tiered rate structure with ninety days advance written notice.

(3) Counties, municipalities, political subdivisions, and tribal governments must pay the monthly employer group rate surcharge in the amount invoiced by the authority.

(4) If an employer group or board member of school districts and educational service districts want to make subsequent changes to the contract, the changes must be submitted to the authority for approval.

(5) The employer group or board members of school districts and educational service districts must maintain participation in PEBB insurance coverage for at least one full year. An employer group or board members of school districts and educational service districts may only end participation at the end of a plan year unless the authority approves a mid-year termination. To end participation, an employer group or board members of school districts and educational service districts must provide written notice to the PEBB program at least (~~sixty~~) 60 days before the requested termination date. If an employer group terminates participation in PEBB insurance coverage, they must:

(a) Notify all their employees, dependents, or retirees who are enrolled in PEBB insurance coverage 45 days prior to the employer group's date of termination; and

(b) Provide assistance to retirees as described in RCW 41.04.208(12).

(6) Upon approval to purchase insurance through a contract with the authority, the employer group must provide a list of employees and dependents that are enrolled in Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage and the remaining number of months available to them based on their qualifying event. These employees and dependents may enroll in a PEBB health plan as COBRA subscribers for the

remainder of the months available to them based on their qualifying event.

(7) Enrollees in PEBB insurance coverage under one of the continuation of coverage provisions allowed under chapter 182-12 WAC or retirees included in the transfer unit as allowed under WAC 182-08-237 cease to be eligible as of the last day of the contract and may not continue enrollment beyond the end of the month in which the contract is terminated.

Exception: If an employer group (~~other than an educational service district~~) ends participation, retired and disabled employees who began participation before September 15, 1991, are eligible to continue enrollment in PEBB insurance coverage if ~~(the employee)~~ they continue(s) to meet the procedural and eligibility requirements of WAC 182-12-171. Employees who enrolled after September 15, 1991, who are enrolled in PEBB retiree insurance coverage cease to be eligible under WAC 182-12-171, but may continue health plan enrollment on the same terms and conditions as retirees who are eligible under COBRA (see WAC 182-12-146).

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-13-106 (Admin #2021-01.06), § 182-08-245, filed 6/18/21, effective 1/1/22; WSR 20-16-062 (Admin #2020-03), § 182-08-245, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-245, filed 8/20/19, effective 1/1/20; WSR 17-19-077 (Order 2017-01), § 182-08-245, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-245, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-08-245, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-245, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160, 2013 2nd sp.s. c 4 and PEBB policy resolutions. WSR 14-08-040, § 182-08-245, filed 3/26/14, effective 4/26/14. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-245, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-08-245, filed 9/25/12, effective 11/1/12.]

OTS-4516.1

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-12-109 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Accidental death and dismemberment insurance" or "AD&D" means basic accidental death and dismemberment (AD&D) insurance paid for by the employing agency, as well as supplemental accidental death and dismemberment insurance offered to and paid for by employees for themselves and their dependents.

"Affordable Care Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, P.L. 111-152, or federal regulations or guidance issued under the Affordable Care Act.

"Annual open enrollment" means an annual event set aside for a period of time by the HCA when subscribers may make changes to their

health plan enrollment and salary reduction elections for the following plan year. During the annual open enrollment, subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll in coverage, or waive enrollment (see definition of "waive" in this section). Employees eligible to participate in the salary reduction plan may enroll in or change their election under the dependent care assistance program (DCAP), the medical flexible spending arrangement (FSA), or limited purpose FSA. They may also enroll in or opt out of the premium payment plan.

"Authority" or "HCA" means the Washington state health care authority.

"Benefits-eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114 (2) or (3) (a) (ii).

"Blind vendor" means a "licensee" as defined in RCW 74.18.200.

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all state legal holidays as set forth in RCW 1.16.050.

"Consolidated Omnibus Budget Reconciliation Act" or "COBRA" means continuation coverage as administered under 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Continuation coverage" means the temporary continuation of PEBB benefits available to enrollees under the Consolidated Omnibus Budget Reconciliation Act (COBRA), 42 U.S.C. Secs. 300bb-1 through 300bb-8, the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Secs. 4301 through 4335, or the public employees benefits board's policies.

"Contracted vendor" means any person, persons, or entity under contract or agreement with the HCA to provide goods or services for the provision or administration of PEBB benefits. The term "contracted vendor" includes subcontractors of the HCA and subcontractors of any person, persons, or entity under contract or agreement with the HCA that provide goods or services for the provision or administration of PEBB benefits.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13) (a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in PEBB insurance coverage by a retiree or an eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 129 or other sections of the Internal Revenue Code.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, electronic mail, electronic files, or other printed or written items.

"Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.

"Employee" for the public employees benefits board program includes all employees of the state, whether or not covered by civil

service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization; (c) through December 31, 2019, employees of a school district or represented employees of an educational service district if the authority agrees to provide any of the school districts' or educational service districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); (f) through December 31, 2019, employees of a charter school established under chapter 28A.710 RCW; and (g) through December 31, 2023, nonrepresented employees of an educational service district. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under RCW 41.05.011 or by the authority under this chapter.

"Employer" for the public employees benefits board program means the state of Washington.

"Employer-based group dental" means group dental related to a current employment relationship. It does not include dental coverage available to retired employees, individual market dental coverage, or government-sponsored programs such as medicaid.

"Employer-based group health plan" means group medical and group dental related to a current employment relationship. It does not include medical or dental coverage available to retired employees, individual market medical or dental coverage, or government-sponsored programs such as medicare or medicaid.

"Employer-based group medical" means group medical related to a current employment relationship. It does not include medical coverage available to retired employees, individual market medical coverage, or government-sponsored programs such as medicare or medicaid.

"Employer contribution" means the funding amount paid to the HCA by a state agency or employer group for its eligible employees as described under WAC 182-12-114 and 182-12-131.

"Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, employee organizations representing state civil service employees, and through December 31, 2019, school districts and charter

schools, and through December 31, 2023, educational service districts obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the public employees benefits board as described in WAC 182-08-245.

"Employer-paid coverage" means PEBB insurance coverage for which an employer contribution is made by a state agency or an employer group for employees eligible in WAC 182-12-114 and 182-12-131. It also means SEBB insurance coverage for which an employer contribution is made by a SEBB organization, or basic benefits described in RCW 28A.400.270(1) for which an employer contribution is made by an educational service district.

"Employing agency" for the public employees benefits board means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, or other political subdivision; and a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Exchange" means the Washington health benefit exchange established in RCW 43.71.020, and any other health benefit exchange established under the Affordable Care Act.

"Exchange coverage" means coverage offered by a qualified health plan through an exchange.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

"Federal retiree medical plan" means the Federal Employees Health Benefits program (FEHB) or TRICARE plans which are not employer-based group medical.

"Forms" or "form" means both paper forms and forms completed electronically.

"Health plan" means a plan offering medical or dental, or both, developed by the board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

"Life insurance" means basic life insurance paid for by the employing agency, as well as supplemental life insurance or supplemental dependent life insurance offered to and paid for by employees for themselves and their dependents. Life insurance for eligible retirees includes retiree term life insurance offered to and paid for by retirees.

"Limited purpose flexible spending arrangement" or "limited purpose FSA" means a benefit plan whereby eligible state employees may reduce their salary before taxes to pay for dental and vision expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Long-term disability insurance" or "LTD insurance" means employer-paid long-term disability insurance and employee-paid long-term disability insurance offered by the PEBB program.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby eligible state employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Pay status" means all hours for which an employee receives pay.

"PEBB" means the public employees benefits board.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB insurance coverage" means any health plan, life insurance, accidental death and dismemberment insurance, long-term disability (LTD) insurance, long-term care insurance, or property and casualty insurance administered as a PEBB benefit.

"PEBB program" means the program within the HCA that administers insurance and other benefits for eligible employees (as described in WAC 182-12-114), eligible retired employees (as described in WAC 182-12-171, 182-12-180, and 182-12-211), eligible survivors (as described in WAC 182-12-180, 182-12-250, and 182-12-265), eligible dependents (as described in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Plan year" means the time period established by the authority.

"Premium payment plan" means a benefit plan whereby public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's medical premium contribution, due to an enrollee's tobacco use or an enrolled subscriber's spouse or state registered domestic partner choosing not to enroll in their employer-based group medical when:

- The spouse's or state registered domestic partner's share of the medical premium is less than 95 percent of the additional cost an employee would be required to pay to enroll a spouse or state registered domestic partner in the public employees benefits board (PEBB) Uniform Medical Plan (UMP) Classic; and

- The benefits have an actuarial value of at least 95 percent of the actuarial value of PEBB UMP Classic benefits.

"Public employee" has the same meaning as employee.

"Qualified health plan" means a medical plan that is certified to be offered through an exchange.

"Salary reduction plan" means a benefit plan whereby public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, limited purpose flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School employee" (~~includes:~~

~~(a) Through December 31, 2023,)) means all employees of school districts and charter schools established under chapter 28A.710 RCW ((~~and represented employees of educational service districts. For the exclusive purpose of eligibility for PEBB retiree insurance coverage,~~~~

~~the term "school employee" also includes nonrepresented employees of an educational service district; and~~

~~(b) Effective January 1, 2024, all employees of school districts, educational service districts, and charter schools established under chapter 28A.710 RCW); and effective January 1, 2024, all employees of educational service districts.~~

"SEBB" means the school employees benefits board.

"SEBB insurance coverage" means any medical, dental, vision, life insurance, accidental death and dismemberment insurance, or long-term disability insurance administered as a SEBB benefit.

"SEBB organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees benefits board.

"Season" means any recurring annual period of work at a specific time of year that lasts three to 11 consecutive months.

"Seasonal employee" means a state employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. During the special open enrollment subscribers may change health plans and enroll or remove dependents from coverage. Additionally, employees may enroll in or waive enrollment (see definition of "waive" in this section). Employees eligible to participate in the salary reduction plan may enroll in or revoke their election under the DCAP, medical FSA, limited purpose FSA, or the premium payment plan and make a new election. For special open enrollment events related to specific PEBB benefits, see WAC 182-08-198, 182-08-199, 182-12-128, and 182-12-262.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"State registered domestic partner" has the same meaning as defined in RCW 26.60.020(1) and substantially equivalent legal unions from other jurisdictions as defined in RCW 26.60.090.

"Subscriber" means the employee, retiree, continuation coverage enrollee, or survivor who has been determined eligible by the PEBB program, employer group, or state agency, is enrolled in PEBB benefits, and is the individual to whom the PEBB program and contracted vendors will issue all notices, information, requests, and premium bills on behalf of an enrollee.

"Supplemental coverage" means any life insurance or accidental death and dismemberment (AD&D) insurance coverage purchased by the employee in addition to the coverage provided by the employing agency.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, and other tobacco products. It does not include e-cigarettes or United States Food and Drug Administration (FDA) approved quit aids.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means an eligible employee affirmatively declining enrollment in PEBB medical because the employee is enrolled in other employer-based group medical, a TRICARE plan, or medicare as allowed under WAC 182-12-128. An employee on approved educational leave who obtains another employer-based group health plan may waive enrollment as allowed under WAC 182-12-136. An employee may waive enrollment in PEBB medical to enroll in SEBB medical only if they are enrolled in SEBB dental and SEBB vision. An employee who waives enrollment in PEBB medical to enroll in SEBB medical also waives enrollment in PEBB dental.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-12-109, filed 6/21/22, effective 1/1/23; WSR 21-13-106 (Admin #2021-01.06), § 182-12-109, filed 6/18/21, effective 1/1/22; WSR 20-16-062 (Admin #2020-03), § 182-12-109, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-109, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-109, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-12-109, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-109, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-109, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-109, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160, 2013 2nd sp.s. c 4 and PEBB policy resolutions. WSR 14-08-040, § 182-12-109, filed 3/26/14, effective 4/26/14. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-109, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-109, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-12-109, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-12-109, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-109, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-109, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-12-109, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.068. WSR 06-23-165 (Order 06-09), § 182-12-109, filed 11/22/06, effective 12/23/06. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-109, filed 8/26/04, effective 1/1/05.]

AMENDATORY SECTION (Amending WSR 20-16-062, filed 7/28/20, effective 1/1/21)

WAC 182-12-111 Which entities and individuals are eligible for public employees benefits board (PEBB) benefits? The following entities and individuals shall be eligible for public employees benefits board (PEBB) benefits subject to the terms and conditions set forth below:

(1) **State agencies.** State agencies, as defined in WAC 182-12-109, are required to participate in all PEBB benefits. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(2) **Employer groups.** Employer groups may apply to participate in PEBB insurance coverage for groups of employees described in (a)(i) of this subsection and for members of the group's governing authority as described in (a)(i), (ii), and (iii) of this subsection at the option of each employer group:

(a) All eligible employees of the entity must transfer as a unit with the following exceptions:

(i) Bargaining units may elect to participate separately from the whole group;

(ii) Nonrepresented employees may elect to participate separately from the whole group provided all nonrepresented employees join as a group; and

(iii) Members of the employer group's governing authority may participate as described in the employer group's governing statutes and RCW 41.04.205.

(b) Employer groups must apply through the process described in WAC 182-08-235. Applications from employees of employee organizations representing state civil service employees, the Washington health benefit exchange, and employer groups with ~~((five thousand))~~ 5,000 or more employees ~~((, except for educational service districts))~~ are subject to review and approval by the health care authority (HCA) based on the employer group evaluation criteria described in WAC 182-08-240.

(c) Employer groups participate through a contract with the authority as described in WAC 182-08-245.

~~(3) ((Washington state educational service districts. In addition to subsection (2) of this section, the following applies to Washington state educational service districts enrolling in PEBB insurance coverage for its nonrepresented employees until December 31, 2023:~~

~~(a) The HCA will collect an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premium by health plan and family size and an amount equal to any applicable premium surcharge as would be charged to state employees for each participating educational service district.~~

~~(b) The HCA may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.030.~~

~~(4))~~ **The Washington health benefit exchange.** In addition to subsection (2) of this section, the following provisions apply:

(a) The Washington health benefit exchange is subject to the same rules as an employing agency in chapters 182-08, 182-12, and 182-16 WAC.

(b) Employees of the Washington health benefit exchange are subject to the same rules as employees of an employing agency in chapters 182-08, 182-12 and 182-16 WAC.

~~((5))~~ (4) **Eligible nonemployees.**

(a) Blind vendors actively operating a business enterprise program facility in the state of Washington and deemed eligible by the department of services for the blind (DSB) may voluntarily participate in PEBB medical. Dependents of blind vendors are eligible as described in WAC 182-12-260.

(i) Eligible blind vendors and their dependents may enroll during the following times:

- When newly eligible: The DSB will notify eligible blind vendors of their eligibility in advance of the date they are eligible for enrollment in PEBB medical.

To enroll, blind vendors must submit the required forms to the DSB. The forms must be received by the DSB no later than (~~thirty-one~~) 31 days after the blind vendor becomes eligible for PEBB medical;

- During the annual open enrollment: Blind vendors may enroll during the annual open enrollment. The required form must be received by the DSB before the end of the annual open enrollment. Enrollment will begin January 1st of the following year; or

- Following loss of other medical insurance coverage: Blind vendors may enroll following loss of other medical insurance coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA). To enroll, blind vendors must submit the required forms to the DSB. The forms must be received by the DSB no later than (~~sixty~~) 60 days after the loss of other medical insurance coverage. In addition to the required forms, the DSB will require blind vendors to provide evidence of loss of other medical insurance coverage.

(ii) Blind vendors who cease to actively operate a facility become ineligible to participate in PEBB medical as described in (a) of this subsection. Enrollees who lose eligibility for coverage may continue enrollment in PEBB medical on a self-pay basis under Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage as described in WAC 182-12-146(5).

(iii) Blind vendors are not eligible for PEBB retiree insurance coverage.

(b) Dislocated forest products workers enrolled in the employment and career orientation program pursuant to chapter 50.70 RCW shall be eligible for PEBB medical and dental while enrolled in that program.

(c) Board members of Washington state school districts and educational service districts eligible to participate under RCW 28A.400.350 may participate in PEBB medical, dental, basic life insurance, basic accidental death and dismemberment (AD&D) insurance, supplemental life insurance, and supplemental AD&D insurance as long as they remain eligible under that section. The board of directors of educational service districts must apply through the process described in WAC 182-08-235 and participate through a contract with the HCA as described in WAC 182-08-245. Dependents of board members are eligible as described in WAC 182-12-260.

(i) Upon contract with the HCA, eligible board members may individually decide to enroll in PEBB insurance coverage each plan year. If they elect not to enroll, they may only enroll at the following times:

- During the annual open enrollment; or
- Following loss of other medical insurance coverage as defined by the Health Insurance Portability and Accountability Act (HIPAA).

(ii) Board members who no longer hold a position become ineligible to participate in PEBB insurance coverage as described in (c) of

this subsection. Enrollees who lose eligibility for coverage may continue enrollment in PEBB medical, PEBB dental, or both on a self-pay basis under COBRA coverage as described in WAC 182-12-146(6).

(iii) Board members are not eligible for PEBB retiree insurance coverage.

~~((6))~~ (5) **Individuals and entities not eligible as employees include:**

- (a) Adult family home providers as defined in RCW 70.128.010;
- (b) Unpaid volunteers;
- (c) Patients of state hospitals;
- (d) Inmates in work programs offered by the Washington state department of corrections as described in RCW 72.09.100 or an equivalent program administered by a local government;
- (e) Employees of the Washington state convention and trade center as provided in RCW 41.05.110;
- (f) Students of institutions of higher education as determined by their institutions; and
- (g) Any others not expressly defined as an employee.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-12-111, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-111, filed 8/20/19, effective 1/1/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-111, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-111, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-111, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-111, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-111, filed 9/25/12, effective 11/1/12; WSR 10-20-147 (Order 10-02), § 182-12-111, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-111, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-111, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-12-111, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-111, filed 8/26/04, effective 1/1/05; WSR 03-17-031 (Order 02-07), § 182-12-111, filed 8/14/03, effective 9/14/03. Statutory Authority: RCW 41.05.160. WSR 02-18-087 (Order 02-02), § 182-12-111, filed 9/3/02, effective 10/4/02; WSR 99-19-028 (Order 99-04), § 182-12-111, filed 9/8/99, effective 10/9/99; WSR 97-21-127, § 182-12-111, filed 10/21/97, effective 11/21/97. Statutory Authority: Chapter 41.05 RCW. WSR 96-08-043, § 182-12-111, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 41.04.205, 41.05.065, 41.05.011, 41.05.080 and chapter 41.05 RCW. WSR 92-03-040, § 182-12-111, filed 1/10/92, effective 1/10/92. Statutory Authority: Chapter 41.05 RCW. WSR 78-02-015 (Order 2-78), § 182-12-111, filed 1/10/78.]

AMENDATORY SECTION (Amending WSR 20-16-062, filed 7/28/20, effective 1/1/21)

WAC 182-12-113 What are the obligations of a state agency in the application of employee eligibility? (1) All state agencies must carry out all actions, policies, and guidance issued by the public employees benefits board (PEBB) program necessary for the operation of benefit plans, education of employees, claims administration, and appeals process including those described in chapters 182-08, 182-12, and 182-16 WAC. State agencies must:

(a) Use the methods provided by the PEBB program to determine eligibility and enrollment in benefits, unless otherwise approved in writing;

(b) Provide eligibility determination reports with content and in a format designed and communicated by the PEBB program or otherwise as approved in writing by the PEBB program; and

(c) Carry out corrective action and pay any penalties imposed by the authority and established by the board when the state agency's eligibility determinations fail to comply with the criteria under these rules.

(2) All state agencies must determine employee eligibility for PEBB benefits and the employer contribution according to the criteria in WAC 182-12-114 and 182-12-131. State agencies must:

(a) Notify newly hired employees of PEBB program rules and guidance for eligibility and appeal rights;

(b) Provide written notice to faculty who are potentially eligible for benefits and employer contribution of their potential eligibility as described in WAC 182-12-114(3) and 182-12-131;

(c) Inform an employee in writing whether or not they are eligible for PEBB benefits upon employment. The written notice must include a description of any hours that are excluded in determining eligibility and information about the employee's right to appeal eligibility and enrollment decisions. An employee eligible for PEBB benefits must have no less than (~~ten~~) 10 calendar days after the date of notice to elect coverage;

(d) Routinely monitor all employees' eligible work hours to establish eligibility and maintain the employer contribution toward PEBB benefits;

(e) Make eligibility determinations based on the criteria of the eligibility category that most closely describes the employee's work circumstances per the PEBB program's direction;

(f) Identify when a previously ineligible employee becomes eligible or a previously eligible employee loses eligibility; and

(g) Inform an employee in writing whether or not they are eligible for PEBB benefits and the employer contribution whenever there is a change in work pattern such that the employee's eligibility status changes. Whenever this occurs, state agencies must inform the employee of the right to appeal eligibility and enrollment decisions. An employee eligible for PEBB benefits must have no less than (~~ten~~) 10 calendar days after the date of notice to elect coverage.

(3) State agencies must determine employee's dependents eligibility for PEBB health plan coverage according to the criteria in WAC 182-12-260.

(4) State agencies must assist an employee in determining whether or not the employee or their dependent has experienced an event that creates a special open enrollment as described in WAC 182-08-198,

182-08-199, 182-12-128, or 182-12-262, and inform the employee of the changes they can make consistent with that event.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-12-113, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-113, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-113, filed 10/3/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-113, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-113, filed 9/25/12, effective 11/1/12; WSR 09-23-102 (Order 09-02), § 182-12-113, filed 11/17/09, effective 1/1/10.]

AMENDATORY SECTION (Amending WSR 22-13-164, filed 6/21/22, effective 1/1/23)

WAC 182-12-123 Is dual enrollment in public employees benefits board (PEBB) and school employees benefits board (SEBB) prohibited?

Public employees benefits board (PEBB) medical and dental coverage is limited to a single enrollment per individual as described in subsections (1) through (5) of this section. Effective January 1, 2022, individuals are limited to a single enrollment in medical, dental, and vision plans in either the PEBB program or school employees benefits board (SEBB) program as described in subsection (6) of this section.

(1) An individual who has more than one source of eligibility for enrollment in PEBB medical and PEBB dental coverage (called "dual eligibility") is limited to one enrollment.

(2) An eligible employee may waive PEBB medical and enroll as a dependent under the PEBB medical plan of their spouse, state registered domestic partner, or parent as described in WAC 182-12-128.

(3) A dependent enrolled in PEBB medical or PEBB dental who becomes eligible for PEBB benefits as an employee must elect to enroll in PEBB benefits as described in WAC 182-08-197 (1) or (3). This includes making an election to enroll in or waive enrollment in PEBB medical as described in WAC 182-12-128.

(a) If the employee does not waive enrollment in PEBB medical, the employee is not eligible to remain enrolled in their spouse's, state registered domestic partner's, or parent's PEBB medical as a dependent. If the employee's spouse, state registered domestic partner, or parent does not take action to remove the employee (who is enrolled as a dependent) from their subscriber account, the PEBB program will automatically disenroll the employee's enrollment as a dependent the last day of the month before the employee's enrollment in PEBB benefits begins as described in WAC 182-12-114.

Exception: An enrolled dependent who becomes newly eligible for PEBB benefits as an employee may be dual-enrolled in PEBB medical and dental for one month. This exception is only allowed for the first month the dependent is enrolled as an employee, and only if the dependent becomes enrolled as an employee on the first working day of a month that is not the first day of the month.

(b) If the employee elects to waive their enrollment in PEBB medical, the employee will remain enrolled in PEBB medical under their spouse's, state registered domestic partner's, or parent's PEBB medical as a dependent.

(4) A child who is eligible for PEBB medical and PEBB dental under two subscribers may be enrolled under both subscribers but is

limited to a single enrollment in PEBB medical and a single enrollment in PEBB dental.

(5) When an employee is eligible for the employer contribution toward PEBB benefits due to employment in more than one PEBB-participating employing agency the following provisions apply:

(a) The employee must choose to enroll under only one employing agency.

Exception: Faculty who stack to establish or maintain eligibility as described in WAC 182-12-114(3) with two or more state institutions of higher education will be enrolled under the employing agency responsible to pay the employer contribution according to WAC 182-08-200(2).

(b) If the employee loses eligibility under the employing agency, they must notify their other employing agency no later than 60 days from the date PEBB benefits end through the employing agency described in (a) of this subsection to transfer coverage.

(c) The employee's elections remain the same when an employee transfers their enrollment under one employing agency to another employing agency without a break in PEBB benefits for one month or more, as described in (b) of this subsection.

(6) An individual who has more than one source of eligibility for enrollment in the PEBB and SEBB programs is limited to a single enrollment in medical, dental, and vision plans in either the PEBB or SEBB program. An employee must elect to enroll in PEBB benefits as described in WAC 182-08-197, waive enrollment as described in WAC 182-12-128, or remove eligible dependents as described in WAC 182-12-262. If the employee takes no action to resolve the dual enrollment, the PEBB program or the SEBB program will automatically enroll or automatically disenroll the individual as described in (d) through (h) of this subsection.

(a) An eligible employee may waive enrollment in PEBB medical to enroll in SEBB medical only if they are enrolled in SEBB dental and SEBB vision as described in WAC 182-12-128. An employee who waives enrollment in PEBB medical to enroll in SEBB medical also waives enrollment in PEBB dental.

(b) An eligible employee who waives enrollment in PEBB medical when they are enrolled in other employer-based group medical, a TRI-CARE plan, or medicare as described in WAC 182-12-128, and are not enrolled in SEBB medical, may waive enrollment in PEBB dental only if they are enrolled in both SEBB dental and SEBB vision as an eligible dependent in the SEBB program.

(c) A school employee in the SEBB program who waives SEBB medical, SEBB dental, and SEBB vision for PEBB medical must be enrolled in PEBB dental. If the school employee is not already enrolled in PEBB dental, the PEBB program will automatically enroll the school employee in the associated subscriber's PEBB dental.

(d) If the employee is enrolled only in PEBB dental, and is also enrolled in SEBB medical, and no action is taken to resolve their dual enrollment, the employee will remain in SEBB medical. The PEBB program will automatically disenroll the employee from PEBB dental in which they are enrolled. If the employee is not already enrolled in SEBB dental or SEBB vision, the SEBB program will automatically enroll them in both as described in WAC 182-31-070 (6)(g). The employee's enrollment in PEBB program life insurance, accidental death and dismemberment (AD&D) insurance, and long-term disability (LTD) insurance will remain.

(e) If the employee is enrolled in PEBB medical and is also a school employee in the SEBB program and enrolled in SEBB medical, and the employee has been enrolled in SEBB medical longer than they have been enrolled in PEBB medical, and no action is taken by the employee

to resolve their dual enrollment, they will remain in SEBB medical. The PEBB program will automatically disenroll the employee from PEBB medical and PEBB dental. The employee's enrollment in PEBB program life insurance, AD&D insurance, and LTD insurance will remain. If the employee is not enrolled in medical under either the PEBB or SEBB program but is enrolled only in PEBB dental and SEBB vision (with or without enrollment in SEBB dental), the employee will remain in SEBB vision and if enrolled, SEBB dental. If the employee is not already enrolled in SEBB dental, the SEBB program will automatically enroll them as described in WAC 182-31-070 (6)(g). The PEBB program will automatically disenroll the employee from PEBB dental.

(f) If the employee's dependent is enrolled in any PEBB medical or PEBB dental plan, and the dependent is also a school employee in the SEBB program and enrolled in SEBB medical, and no action is taken by either the employee or the dependent to resolve the dependent's dual enrollment, the employee's dependent will remain in SEBB medical. The PEBB program will automatically disenroll the employee's dependent from PEBB medical and PEBB dental in which they are enrolled.

(g) If the employee's dependent is enrolled in both PEBB medical and SEBB medical as a dependent and has been enrolled in SEBB medical longer than they have been enrolled in PEBB medical, and no action is taken to resolve the dual enrollment, the employee's dependent will remain in SEBB medical. The PEBB program will automatically disenroll the employee's dependent from PEBB medical and PEBB dental if they are enrolled. If the employee's dependent who is eligible as a dependent in both the PEBB and SEBB programs is not enrolled in any medical but is enrolled only in PEBB dental and SEBB vision (with or without SEBB dental) as a dependent, the dependent will remain in SEBB vision and if enrolled, SEBB dental. The PEBB program will automatically disenroll the employee's dependent from PEBB dental.

Exception: If there is a National Medical Support Notice (NMSN) or a court order in place, enrollment will be in accordance with the NMSN or order.

(h) If the employee's dependent, who is also a school employee in the SEBB program who the SEBB program automatically disenrolled from SEBB dental and SEBB vision, the PEBB program will automatically enroll the employee's dependent in PEBB dental, if they are not already enrolled.

(i) If the employee who is eligible for the employer contribution toward PEBB benefits was enrolled as a dependent in SEBB medical, SEBB dental, and SEBB vision and is removed by the SEBB subscriber, the employee will be required to return from waived enrollment as described in WAC 182-12-128 (3)(b).

(j) If the PEBB program automatically disenrolls an individual from PEBB medical or PEBB dental to resolve their dual enrollment as described in (e), (f), or (g) of this subsection, but later determines that the employee did take action to resolve their dual enrollment within the required timelines, the PEBB program will reinstate coverage retroactive to the first of the month in which the individual was disenrolled.

(7) A retiree who defers enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 by enrolling as an eligible dependent in a health plan sponsored by PEBB (~~(, a Washington state educational service district,)~~) or SEBB and who loses the employer contribution for such coverage must enroll in PEBB retiree insurance coverage as described in WAC 182-12-200 or defer enrollment as described in WAC 182-12-205.

[Statutory Authority: RCW 41.05.021, 41.05.160, and Policy Resolution PEBB 2022-02. WSR 22-13-164 (Admin #2022-02.02), § 182-12-123, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions PEBB 2021-02, 2021-03, 2021-04, 2021-05, 2021-06, 2021-07, 2021-08, 2021-09. WSR 21-13-102 (Admin #2021-01.02), § 182-12-123, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-12-123, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-123, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-123, filed 10/3/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-123, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-123, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-123, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-123, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-123, filed 9/25/12, effective 11/1/12; WSR 10-20-147 (Order 10-02), § 182-12-123, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-123, filed 11/17/09, effective 1/1/10; WSR 07-20-129 (Order 07-01), § 182-12-123, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-123, filed 8/26/04, effective 1/1/05.]

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-12-128 When may an employee waive enrollment in public employees benefits board (PEBB) medical and when may they enroll in PEBB medical after having waived enrollment? An employee may waive enrollment in public employees benefits board (PEBB) medical (~~only~~) if they are enrolled in other employer-based group medical, a TRICARE plan, or medicare as described in subsection (1)(a) through (c) of this section. They may not waive enrollment in PEBB medical if they are enrolled in PEBB retiree insurance coverage. An employee who waives enrollment in PEBB medical must enroll in PEBB dental, basic life insurance, basic accidental death and dismemberment insurance, and employer-paid long-term disability (LTD) insurance (unless the employing agency does not participate in these PEBB insurance coverages). For an employing agency that participates in LTD insurance, an employee will also be enrolled in employee-paid LTD insurance automatically unless the employee declines their employee-paid LTD insurance as described in WAC 182-08-197.

Exception: An employee may waive their enrollment in PEBB medical to enroll in school employees benefits board (SEBB) medical only if they are enrolled in SEBB dental and SEBB vision. An employee who waives enrollment in PEBB medical to enroll in SEBB medical also waives enrollment in PEBB dental.

(1) To waive enrollment in PEBB medical, the employee must submit the required form to their employing agency at one of the following times:

(a) **When the employee becomes eligible:** An employee may waive PEBB medical when they become eligible for PEBB benefits. The employee must indicate their election to waive enrollment in PEBB medical on the required form and submit the form to their employing agency. The employing agency must receive the form no later than 31 days after the date the employee becomes eligible for PEBB benefits (see WAC 182-08-197). PEBB medical will be waived as of the date the employee becomes eligible for PEBB benefits.

(b) **During the annual open enrollment:** An employee may waive PEBB medical during the annual open enrollment. The required form must be received by the employee's employing agency before the end of the annual open enrollment. PEBB medical will be waived beginning January 1st of the following year.

(c) **During a special open enrollment:** An employee may waive PEBB medical during a special open enrollment only if they are enrolled in other employer-based group medical, a TRICARE plan, or medicare as described in subsection (4) of this section. A special open enrollment event must be an event other than an employee gaining initial eligibility or regaining eligibility for PEBB benefits.

The employee must submit the required form to their employing agency. The employing agency must receive the form no later than 60 days after the event that creates the special open enrollment. In addition to the required form, the employee must provide evidence of the event that creates the special open enrollment to the employing agency.

PEBB medical will be waived the last day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, PEBB medical will be waived the last day of the previous month. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, PEBB medical will be waived the last day of the previous month.

(2) If an employee waives PEBB medical, the employee may not enroll dependents in PEBB medical.

(3) Once PEBB medical is waived, the employee is only allowed to enroll in PEBB medical at the following times:

(a) During the annual open enrollment. The required form must be received by the employee's employing agency before the end of the annual open enrollment. PEBB medical will begin January 1st of the following year.

(b) During a special open enrollment. A special open enrollment allows an employee to revoke their election and make a new election outside of the annual open enrollment. A special open enrollment may be created when one of the events described in subsection (4) of this section occurs.

The employee must submit the required form to their employing agency. The employing agency must receive the form no later than 60 days after the event that creates the special open enrollment. In addition to the required form, the employee must provide evidence of the event that creates the special open enrollment to the employing agency.

PEBB medical will begin the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, coverage is effective on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, PEBB medical for the employee will begin

on the first day of the month in which the event occurs. PEBB medical for the newly born child, newly adopted child, spouse, or state registered domestic partner will begin as described in WAC 182-12-262

(3) (a) (iv).

If an employee who is eligible for the employer contribution toward PEBB benefits was enrolled as a dependent in SEBB medical, SEBB dental, and SEBB vision and is removed by the SEBB subscriber, the health care authority will notify the employee of their removal from the SEBB subscriber's account and that they have experienced a special enrollment event. The employee will be required to return from waived enrollment and elect PEBB medical and PEBB dental. If the employee's employing agency does not receive the employee's required forms indicating their medical and dental elections within 60 days of the employee losing SEBB medical, SEBB dental, and SEBB vision, they will be defaulted into employee-only PEBB medical and PEBB dental as described in WAC 182-08-197 (1) (b) (i) and (ii).

(4) **Special open enrollment:** Any one of the events in (a) through (k) of this subsection may create a special open enrollment that allows the employee to enroll in PEBB medical after having waived enrollment. The change in enrollment must be allowable under the Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment for the employee, the employee's dependent, or both.

(a) Employee acquires a new dependent due to:

(i) Marriage or registering a state registered domestic partnership;

(ii) Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(b) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Employee has a change in employment status that affects the employee's eligibility for their employer contribution toward their employer-based group medical;

(d) The employee's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group medical;

Note: As used in (d) of this subsection, "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(e) Employee or an employee's dependent has a change in enrollment under an employer-based group medical plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(f) Employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States and that change in residence resulted in the dependent losing their health insurance;

(g) A court order requires the employee or any other individual to provide a health plan for an eligible dependent of the employee (a former spouse or former state registered domestic partner is not an eligible dependent);

(h) Employee or an employee's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the employee or an employee's dependent loses eligibility for coverage under medicaid or CHIP;

Note: An employee may only return from having waived PEBB medical for the events described in (h) of this subsection. An employee may not waive their PEBB medical for the events described in (h) of this subsection.

(i) Employee or an employee's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or CHIP;

(j) Employee or employee's dependent becomes eligible and enrolls in a TRICARE plan, or loses eligibility for a TRICARE plan;

(k) Employee becomes eligible and enrolls in medicare, or loses eligibility for medicare.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-12-128, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions PEBB 2021-02, 2021-03, 2021-04, 2021-05, 2021-06, 2021-07, 2021-08, 2021-09. WSR 21-13-102 (Admin #2021-01.02), § 182-12-128, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-12-128, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-128, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-128, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-12-128, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-128, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-128, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-128, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160, 2013 2nd sp.s. c 4 and PEBB policy resolutions. WSR 14-08-040, § 182-12-128, filed 3/26/14, effective 4/26/14. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-128, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-128, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-12-128, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-12-128, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-128, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-128, filed 10/1/08, effective 1/1/09; WSR 08-09-027 (Order 08-01), § 182-12-128, filed 4/8/08, effective 4/9/08; WSR 07-20-129 (Order 07-01), § 182-12-128, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-128, filed 8/26/04, effective 1/1/05.]

AMENDATORY SECTION (Amending WSR 20-16-062, filed 7/28/20, effective 1/1/21)

WAC 182-12-129 What happens when an employee moves from an eligible to an otherwise ineligible position or job due to a layoff?

This section applies to employees employed by state agencies (as defined in this chapter), including benefits-eligible seasonal employees, and is intended to address situations where an employee moves from one position or job to another due to a layoff, as described in WAC 182-12-109. This section does not apply to employees with an anticipated end date.

If an employee moves from an eligible to an otherwise ineligible position due to layoff, the employee may retain their eligibility for the employer contribution toward public employees benefits board (PEBB) benefits for each month that the employee is in pay status for at least eight hours. To maintain eligibility using this section the employee must:

- Be hired into a position with a state agency within (~~twenty-four~~) 24 months of the original eligible position ending; and
- Upon hire, notify the employing state agency that they are potentially eligible to use this section.

This section ceases to apply (~~if~~) when the employee is employed in a position eligible for PEBB benefits under WAC 182-12-114 (~~within twenty-four months of leaving the original position.~~

~~After the twenty-fourth month, the employee must reestablish eligibility as described in WAC 182-12-114)~~ or at the end of the 24th month after the original eligible position ended, whichever occurs first.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-12-129, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160 and PEBB policy resolutions. WSR 18-20-117 (Admin #2018-02), § 182-12-129, filed 10/3/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-129, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-129, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 09-23-102 (Order 09-02), § 182-12-129, filed 11/17/09, effective 1/1/10.]

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-12-146 When is an enrollee eligible to continue public employees benefits board (PEBB) benefits under Consolidated Omnibus Budget Reconciliation Act (COBRA)? (1) An employee or an employee's dependent who loses eligibility for the employer contribution toward public employees benefits board (PEBB) benefits and who qualifies for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) may continue coverage for PEBB medical, dental, or both.

(2) An employee or an employee's dependent who loses eligibility for continuation coverage described in WAC 182-12-133, 182-12-141, 182-12-142, or 182-12-148 but who has not used the maximum number of months allowed under COBRA may continue PEBB medical, dental, or both for the remaining difference in months.

(3) A retired employee who loses eligibility for PEBB retiree insurance coverage because an employer group (~~(, with the exception of educational service districts,)~~) ceases participation in PEBB insur-

ance coverage may continue PEBB medical, dental, or both on the same terms and conditions as retirees who are eligible under COBRA.

(4) A retiree or a dependent of a retiree, who is no longer eligible as described in WAC 182-12-171, 182-12-180, or 182-12-260 may continue PEBB medical, dental, or both.

(5) A blind vendor who ceases to actively operate a facility as described in WAC 182-12-111 (~~((5))~~) (4)(a) may continue enrollment in PEBB medical for the maximum number of months allowed under COBRA as described in this section.

(6) A board member who no longer qualifies as described in WAC 182-12-111 (~~((5))~~) (4)(c) may continue enrollment in PEBB medical, dental, or both for the maximum number of months allowed under COBRA as described in this section.

(7) An enrollee may continue PEBB medical, dental, or both under COBRA by self-paying the premium and applicable premium surcharges set by the health care authority (HCA):

(a) The election must be received by the PEBB program no later than 60 days from the date the enrollee's PEBB health plan coverage ended or from the postmark date on the election notice sent by the PEBB program, whichever is later;

(b) The first premium payment under COBRA coverage and applicable premium surcharges are due to the HCA no later than 45 days after the election period ends as described in (a) of this subsection. Following the enrollee's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-08-180 (1)(c);

(c) COBRA continuation coverage enrollees who voluntarily terminate their COBRA coverage will not be eligible to reenroll in COBRA coverage unless they regain eligibility as described in WAC 182-12-114. Those who request to terminate their COBRA coverage must do so in writing. COBRA coverage will end on the last day of the month in which the PEBB program receives the termination request or on the last day of the month specified in the COBRA enrollee's termination request, whichever is later. If the termination request is received on the first day of the month, COBRA coverage will end on the last day of the previous month;

(d) An employee enrolled in a medical flexible spending arrangement (FSA) or limited purpose FSA and the employee's dependents will have an opportunity to continue making contributions to their medical FSA or limited purpose FSA by electing COBRA if on the date of the qualifying event, as described under 42 U.S.C. Sec. 300bb-3, the employee's medical FSA or limited purpose FSA has a greater amount in remaining benefits than remaining contribution payments for the current year. The election must be received by the contracted vendor no later than 60 days from the date the PEBB health plan coverage ended or from the postmark date on the election notice sent by the contracted vendor, whichever is later. The first premium payment under COBRA coverage is due to the contracted vendor no later than 45 days after the election period ends as described above.

(8) A subscriber's state registered domestic partner and the state registered domestic partner's children may continue PEBB medical, dental, or both on the same terms and conditions as spouses and other eligible dependents under COBRA as described under RCW 26.60.015.

(9) Medical and dental coverage under COBRA begin on the first day of the month following the day the COBRA enrollee loses eligibility for PEBB health plan coverage as described in WAC 182-12-131,

182-12-133, 182-12-141, 182-12-142, 182-12-148, 182-12-171,
182-12-180, 182-12-250, 182-12-260, or 182-12-265.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-12-146, filed 6/21/22, effective 1/1/23; WSR 20-16-062 (Admin #2020-03), § 182-12-146, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-146, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-146, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-12-146, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-146, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-146, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin 2013-01), § 182-12-146, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-146, filed 9/25/12, effective 11/1/12; WSR 09-23-102 (Order 09-02), § 182-12-146, filed 11/17/09, effective 1/1/10; WSR 07-20-129 (Order 07-01), § 182-12-146, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-146, filed 8/26/04, effective 1/1/05.]

AMENDATORY SECTION (Amending WSR 22-13-160, filed 6/21/22, effective 1/1/23)

WAC 182-12-171 When is a retiring employee or a retiring school employee eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage? A retiring employee or a retiring school employee is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if they meet procedural and substantive eligibility requirements as described in subsections (1), (2), and (3) of this section. An elected and full-time appointed official of the legislative and executive branch of state government is eligible as described in WAC 182-12-180.

(1) **Procedural requirements.** A retiring employee or a retiring school employee must enroll or defer enrollment in PEBB retiree insurance coverage as described in (a) through (d) of this subsection:

(a) To enroll in PEBB retiree insurance coverage, the required form must be received by the PEBB program no later than 60 days after the employee's or the school employee's own employer-paid coverage, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, or continuation coverage ends. The effective date of PEBB retiree insurance coverage is the first day of the month after the employee's or the school employee's employer-paid coverage, COBRA coverage, or continuation coverage ends;

Note: Enrollment in the PEBB program's medicare advantage (MA) or medicare advantage-prescription drug (MA-PD) plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in Uniform Medical Plan (UMP) Classic during the gap month(s) prior to when the MA-PD coverage begins.

(b) The employee's or the school employee's first premium payment for PEBB retiree insurance coverage and applicable premium surcharges

are due to the health care authority (HCA) no later than 45 days after the election period ends as described in (a) of this subsection. Following the employee's or the school employee's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-08-180 (1)(c); and

(c) If a retiring employee or a retiring school employee elects to enroll a dependent in PEBB health plan coverage, the dependent must be enrolled in the same PEBB medical and PEBB dental plan as the retiring employee or the retiring school employee;

Exception: If a retiring employee or a retiring school employee selects a medicare supplement plan or MA-PD plan, nonmedicare enrollees will be enrolled in the UMP Classic. If a retiring employee or a retiring school employee selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(d) To defer enrollment in PEBB retiree insurance coverage, the employee or the school employee must meet substantive eligibility requirements in subsection (2) of this section and defer enrollment as described in WAC 182-12-200 or 182-12-205.

(2) Substantive eligibility requirements.

An employee who is eligible for PEBB benefits through an employing agency, or a school employee who is eligible for SEBB benefits through a SEBB organization or basic benefits through an educational service district as defined in RCW 28A.400.270 who ends public employment may enroll or defer enrollment in PEBB retiree insurance coverage if they meet procedural and substantive eligibility requirements.

To be eligible to continue enrollment or defer enrollment in PEBB retiree insurance coverage, the employee or the school employee must be vested in and eligible to retire under a Washington state-sponsored retirement plan when the employee's or school employee's own employer-paid coverage, COBRA coverage, or continuation coverage ends. An exception to the requirement to be vested in and eligible to retire under a Washington state-sponsored retirement plan is provided for employees of an employer group in (c)(i) of this subsection. To satisfy the requirement to immediately begin to receive a monthly retirement plan payment as described in (a), (b), (c)(ii), and (d) of this subsection, the employee or school employee must begin receiving a monthly retirement plan payment no later than the first month following the employee's or school employee's own employer-paid coverage, COBRA coverage, or continuation coverage ending.

(a) A retiring employee of a state agency must immediately begin to receive a monthly retirement plan payment, with exceptions described below:

(i) A retiring employee who receives a lump sum payment instead of a monthly retirement plan payment is only eligible if the department of retirement systems offered the employee the choice between a lump sum actuarially equivalent payment and the ongoing monthly payment, as allowed by the plan; or

(ii) A retiring employee who is a member of a Plan 3 retirement plan, also called a separated employee (defined in RCW 41.05.011(25)), must meet their Plan 3 retirement eligibility criteria. The employee does not have to receive a retirement plan payment to enroll in PEBB retiree insurance coverage.

(b) A retiring employee of a Washington higher education institution who is a member of a higher education retirement plan (HERP) must immediately begin to receive a monthly retirement plan payment, or meet their HERP plan's retirement eligibility criteria, or be at least age 55 with 10 years of state service;

(c) A retiring employee of an employer group participating in PEBB insurance coverage under contractual agreement with the authority

must be eligible to retire as described in (c) (i) or (ii) of this subsection to be eligible to continue PEBB retiree insurance coverage (~~(, except for an educational service district employee who must meet the requirements as described in (d) of this subsection)~~).

(i) A retiring employee who is eligible to retire under a retirement plan sponsored by an employer group or tribal government that is not a Washington state-sponsored retirement plan must meet the same age and years of service requirements as if they were a member of public employees retirement system Plan 1, if their date of hire with that employer group or tribal government was before October 1, 1977, or Plan 2, if their date of hire with that employer group or tribal government was on or after October 1, 1977.

(ii) A retiring employee who is eligible to retire under a Washington state-sponsored retirement plan must immediately begin to receive a monthly retirement plan payment, with exceptions described in (a) (i) and (ii) of this subsection.

(iii) A retired employee of an employer group (~~(, except a Washington state educational service district,)~~) that ends participation in PEBB insurance coverage is no longer eligible to continue enrollment in PEBB retiree insurance coverage if they enrolled after September 15, 1991. Any retiree who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-146.

(iv) A retired employee of a tribal government employer that ends participation in PEBB insurance coverage is no longer eligible to continue enrollment in PEBB retiree insurance coverage. Any retiree who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-146.

(d) A retiring school employee must immediately begin to receive a monthly retirement plan payment, with exceptions described below:

(i) A retiring school employee who ends employment before October 1, 1993; or

(ii) A retiring school employee who receives a lump sum payment instead of a monthly retirement plan payment is only eligible if the department of retirement systems offered the school employee the choice between a lump sum actuarially equivalent payment and the ongoing monthly payment, as allowed by the plan, or the school employee enrolled before 1995; or

(iii) A retiring school employee who is a member of a Plan 3 retirement system, also called a separated employee (defined in RCW 41.05.011(25)), must meet their Plan 3 retirement eligibility criteria; or

(iv) A school employee who retired as of September 30, 1993, and began receiving a monthly retirement plan payment from a Washington state-sponsored retirement system (as defined in chapters 41.32, 41.35 or 41.40 RCW) is eligible if they enrolled in a PEBB health plan no later than the HCA's annual open enrollment period for the year beginning January 1, 1995.

(3) A retiring employee or a retiring school employee and their enrolled dependents who are eligible for medicare must enroll and maintain enrollment in both medicare Parts A and B if the employee or the school employee retired after July 1, 1991. If a retiree or an enrolled dependent becomes eligible for medicare after enrollment in PEBB retiree insurance coverage, they must enroll and maintain enrollment in medicare Parts A and B to remain enrolled in a PEBB retiree health plan. If an enrollee who is eligible for medicare does not meet this procedural requirement, the enrollee is no longer eligible for enrollment in a PEBB retiree health plan. The enrollee's eligibility

will end as described in the termination notice sent by the PEBB program. The enrollee may continue PEBB health plan enrollment as described in WAC 182-12-146.

Note: For the exclusive purpose of medicare Part A as described in this subsection, "eligible" means the enrollee is eligible for medicare Part A without a monthly premium.

- (4) Washington state-sponsored retirement plans include:
- (a) Higher education retirement plans;
 - (b) Law enforcement officers' and firefighters' retirement system;
 - (c) Public employees' retirement system;
 - (d) Public safety employees' retirement system;
 - (e) School employees' retirement system;
 - (f) State judges/judicial retirement system;
 - (g) Teachers' retirement system; and
 - (h) State patrol retirement system.
 - (i) The two federal retirement systems, Civil Service Retirement System and Federal Employees' Retirement System, are considered Washington state-sponsored retirement systems for Washington State University Extension for an employee covered under PEBB benefits at the time of retirement.

[Statutory Authority: RCW 41.05.021, 41.05.160, and Policy Resolution PEBB 2022-03. WSR 22-13-160 (Admin #2022-02.03), § 182-12-171, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. § 422.62(b) and § 423.38(c) and PEBB policy resolution 2020-05. WSR 20-16-063 (Admin #2020-02), § 182-12-171, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolution. WSR 19-17-073 (Admin #2019-01), § 182-12-171, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-171, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-12-171, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-171, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-171, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-171, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-171, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-171, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-12-171, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-12-171, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-171, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-171, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-12-171, filed 10/3/07, effective 11/3/07; WSR 06-11-156 (Order 06-02), § 182-12-171, filed 5/24/06, effective 6/24/06. Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. WSR 05-16-046 (Order 05-01), § 182-12-171, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-171, filed 8/26/04, effective 1/1/05.]

AMENDATORY SECTION (Amending WSR 22-13-160, filed 6/21/22, effective 1/1/23)

WAC 182-12-200 May a retiring employee, a retiring school employee, or a retiree enrolled as a dependent in a health plan sponsored by public employees benefits board (PEBB) (~~(, a Washington state educational service district,)~~) or school employees benefits board (SEBB) defer enrollment under PEBB retiree insurance coverage? (1) A retiring employee or a retiring school employee may defer enrollment in public employees benefits board (PEBB) retiree insurance coverage at retirement if they meet substantive eligibility requirements as described in WAC 182-12-171(2) or as described in WAC 182-12-180(1). An enrolled retiree may defer enrollment after enrolling in PEBB retiree insurance coverage. Enrollment in PEBB retiree insurance coverage may be deferred when they are enrolled as a dependent in a health plan sponsored by PEBB(~~(, a Washington state educational service district,)~~) or school employees benefits board (SEBB), including such coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) or continuation coverage.

(2) A retiring employee, a retiring school employee, or a retiree who defers enrollment in PEBB retiree insurance coverage defers enrollment in PEBB medical and PEBB dental. A retiree must be enrolled in PEBB medical to enroll in PEBB dental. A retiree who defers enrollment also defers enrollment for all eligible dependents. A retiree may only defer enrollment in PEBB retiree term life insurance as described in WAC 182-12-209 (3)(b).

(3) A retiring employee, a retiring school employee, or a retiree who defers enrollment as described in this section may later enroll themselves and their dependents in a PEBB health plan by submitting the required forms as described below and evidence of continuous enrollment in a health plan sponsored by PEBB(~~(, a Washington state educational service district,)~~) or SEBB. Evidence of continuous enrollment in a health plan sponsored by a Washington state educational service district may be required if a retiring employee, a retiring school employee, or a retiree deferred enrollment under this section prior to January 1, 2024. A gap of 31 days or less is allowed between the date PEBB retiree insurance coverage is deferred and the start date of enrollment in a health plan sponsored by PEBB, a Washington state educational service district, or SEBB, and between each period of enrollment in qualifying coverages as described in WAC 182-12-205 (3)(a) through (e) during the deferral period:

(a) During the PEBB annual open enrollment period. The required form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(b) When enrollment in a health plan sponsored by PEBB, a Washington state educational service district, or SEBB ends, or such coverage under COBRA or continuation coverage ends. The required forms to enroll must be received by the PEBB program no later than 60 days after coverage ends. PEBB health plan coverage begins the first day of the month following the date the other coverage ends. To continue in a deferred status, the retiree must defer enrollment as described in WAC 182-12-205.

Note: Enrollment in the PEBB program's medicare advantage (MA) or medicare advantage-prescription drug (MA-PD) plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in Uniform Medical Plan (UMP) Classic during the gap month(s) prior to when the MA-PD coverage begins.

(c) If a retiree elects to enroll a dependent in PEBB health plan coverage as described in this subsection, the dependent must be enrolled in the same PEBB medical or PEBB dental plan as the retiree.

Exception: If a retiree selects a medicare supplement plan or MA-PD plan, nonmedicare enrollees will be enrolled in the UMP Classic. If a retiree selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

[Statutory Authority: RCW 41.05.021, 41.05.160, and Policy Resolution PEBB 2022-03. WSR 22-13-160 (Admin #2022-02.03), § 182-12-200, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolution PEBB 2021-14. WSR 21-13-104 (Admin #2021-01.04), § 182-12-200, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. § 422.62(b) and § 423.38(c) and PEBB policy resolution 2020-05. WSR 20-16-063 (Admin #2020-02), § 182-12-200, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-200, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-200, filed 10/3/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-200, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-200, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-200, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160. WSR 09-23-102 (Order 09-02), § 182-12-200, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-200, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-12-200, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-200, filed 8/26/04, effective 1/1/05. Statutory Authority: RCW 41.05.160. WSR 01-17-041 (Order 01-00), § 182-12-200, filed 8/9/01, effective 9/9/01; WSR 97-21-127, § 182-12-200, filed 10/21/97, effective 11/21/97. Statutory Authority: Chapter 41.05 RCW. WSR 96-08-043, § 182-12-200, filed 3/29/96, effective 4/29/96; Order 4-77, § 182-12-200, filed 11/17/77.]

AMENDATORY SECTION (Amending WSR 22-13-165, filed 6/21/22, effective 1/1/23)

WAC 182-12-205 May a retiree or a survivor defer enrollment or voluntarily terminate enrollment under public employees benefits board (PEBB) retiree insurance coverage? (1) The following individuals may defer enrollment in public employees benefits board (PEBB) retiree insurance coverage:

(a) A retiring employee or a retiring school employee;

(b) A dependent becoming eligible as a survivor; or

(c) A retiree or a survivor enrolled in PEBB retiree insurance coverage.

(2) A subscriber described in subsection (1) of this section who defers enrollment in PEBB retiree insurance coverage also defers en-

rollment for all eligible dependents, except as described in subsection (3)(c) of this section.

(3) A subscriber described in subsection (1) of this section who chooses to defer enrollment in PEBB retiree insurance coverage must maintain continuous enrollment in one or more qualifying coverages as described in this subsection or WAC 182-12-200. A gap of 31 days or less is allowed between the date PEBB retiree insurance coverage is deferred and the start date of a qualifying coverage, and between each period of enrollment in qualifying coverages during the deferral period. A subscriber who chooses to defer enrollment, defers enrollment in PEBB medical and PEBB dental. A subscriber must be enrolled in PEBB medical to enroll in PEBB dental. A retiree may only defer enrollment in PEBB retiree term life insurance as described in WAC 182-12-209 (3)(b).

(a) Beginning January 1, 2001, enrollment in PEBB retiree insurance coverage may be deferred when the subscriber is enrolled in employer-based group medical as an employee or the dependent of an employee, or such medical insurance continued under Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage or continuation coverage.

(b) Beginning January 1, 2001, enrollment in PEBB retiree insurance coverage may be deferred when the subscriber is enrolled as a retiree or the dependent of a retiree in a federal retiree medical plan.

(c) Beginning January 1, 2006, enrollment in PEBB retiree insurance coverage may be deferred when the subscriber is enrolled in medicare Parts A and B and a medicaid program that provides creditable coverage as defined in WAC 182-12-109. Dependents may continue their PEBB health plan enrollment if they meet PEBB eligibility criteria and are not eligible for creditable coverage under a medicaid program.

(d) Beginning January 1, 2014, subscribers who are not eligible for Parts A and B of medicare may defer enrollment in PEBB retiree insurance coverage when the subscriber is enrolled in exchange coverage.

(e) Beginning July 17, 2018, enrollment in PEBB retiree insurance coverage may be deferred when the subscriber is enrolled in the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA).

(4) To defer enrollment in PEBB retiree insurance coverage, the required forms must be submitted to the PEBB program.

(a) For a retiring employee or a retiring school employee who meets the substantive eligibility requirements as described in WAC 182-12-171(2), enrollment will be deferred the first of the month following the date their own employer-paid coverage, COBRA coverage, or continuation coverage ends. The forms must be received by the PEBB program no later than 60 days after (~~the~~) their own employer-paid coverage, COBRA coverage, or continuation coverage ends.

(b) For an official leaving public office who meets the requirements as described in WAC 182-12-180(1), enrollment will be deferred the first of the month following the date the official leaves public office. The forms must be received by the PEBB program no later than 60 days after the official leaves public office.

(c) For an employee or a school employee determined to be retroactively eligible for disability retirement who meets the requirements as described in WAC 182-12-211 (1)(a) through (c), enrollment will be deferred as described in WAC 182-12-211 (2) or (3). The forms and formal determination letter must be received by the PEBB program no later than 60 days after the date on the determination letter.

(d) For an eligible survivor, the dependent must meet the requirements described below and the forms must be received by the PEBB program within the time described:

(i) For a survivor of an employee or a school employee who meets the requirements as described in WAC 182-12-265 (1) or (3), enrollment will be deferred the first of the month following the later of the date of the employee's or the school employee's death or the date the survivor's PEBB insurance coverage, educational service district coverage, or school employees benefits board (SEBB) insurance coverage ends. The forms must be received by the PEBB program no later than 60 days after the later of the date of the employee's or the school employee's death or the date the survivor's PEBB insurance coverage, educational service district coverage, or SEBB insurance coverage ends.

(ii) For a survivor of an official who meets the requirements as described in WAC 182-12-180(2), enrollment will be deferred the first of the month following the later of the date of the official's death or the date the survivor's PEBB insurance coverage ends. The forms must be received by the PEBB program no later than 60 days after the later of the date of the official's death or the date the survivor's PEBB insurance coverage ends.

(iii) For a survivor of a retiree who meets the requirements as described in WAC 182-12-265(2), enrollment will be deferred the first of the month following the date of the retiree's death. The forms must be received by the PEBB program no later than 60 days after the retiree's death.

(iv) For a survivor of an emergency service personnel killed in the line of duty who meets the requirements as described in WAC 182-12-250, enrollment will be deferred the first of the month following the later of one of the events described in WAC 182-12-250 (5)(a) through (d). The forms must be received by the PEBB program no later than 180 days after the later of one of the events described in WAC 182-12-250 (5)(a) through (d).

(e) For an enrolled retiree or survivor who submits the required forms to defer enrollment in PEBB retiree insurance coverage, enrollment will be deferred effective the first of the month following the date the required forms are received by the PEBB program. If the forms are received on the first day of the month, enrollment will be deferred effective that day.

Exception: When a subscriber or their dependent is enrolled in a medicare advantage plan (MA), then enrollment in PEBB retiree insurance coverage will be deferred effective the first of the month following the date the MA plan disenrollment form is received.

(5) A retiree who meets substantive eligibility requirements in WAC 182-12-171(2) and whose own employer-paid coverage, COBRA coverage, or continuation coverage ended between January 1, 2001, and December 31, 2001, was not required to have submitted the deferral form at that time, but must meet all procedural requirements as stated in this section, WAC 182-12-171, and 182-12-200.

(6) A subscriber described in subsection (1) of this section who defers enrollment while enrolled in qualifying coverage as described in subsection (3)(a) through (e) of this section may later enroll themselves and their dependents in a PEBB health plan by submitting the required forms as described below and evidence of continuous enrollment in one or more qualifying coverages as described in subsection (3)(a) through (e) of this section. A gap of 31 days or less is allowed between the date PEBB retiree insurance coverage is deferred and the start date of a qualifying coverage, and between each period of enrollment in qualifying coverages during the deferral period:

(a) A subscriber who defers enrollment while enrolled in employer-based group medical or such medical insurance continued under COBRA coverage or continuation coverage may enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment to the PEBB program:

(i) During the PEBB annual open enrollment period. The required forms must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When their employer-based group medical or such coverage under COBRA coverage or continuation coverage ends. The required forms and evidence of continuous enrollment must be received by the PEBB program no later than 60 days after coverage ends. PEBB health plan coverage begins the first day of the month after the employer-based group medical coverage, COBRA coverage, or continuation coverage ends.

Note: Enrollment in the PEBB program's MA or medicare advantage-prescription drug (MA-PD) plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in Uniform Medical Plan (UMP) Classic during the gap month(s) prior to when the MA-PD coverage begins.

(b) A subscriber who defers enrollment while enrolled as a retiree or dependent of a retiree in a federal retiree medical plan will have a one-time opportunity to enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment to the PEBB program:

(i) During the PEBB annual open enrollment period. The required forms must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When the federal retiree medical plan coverage ends. The required forms and evidence of continuous enrollment must be received by the PEBB program no later than 60 days after coverage ends. PEBB health plan coverage begins the first day of the month after coverage under the federal retiree medical plan ends.

Note: Enrollment in the PEBB program's MA or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(c) A subscriber who defers enrollment while enrolled in medicare Parts A and B and a medicaid program that provides creditable coverage as defined in WAC 182-12-109 may enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment to the PEBB program:

(i) During the PEBB annual open enrollment period. The required forms must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When their medicaid coverage ends. The required forms and evidence of continuous enrollment must be received by the PEBB program no later than 60 days after coverage ends. PEBB health plan coverage begins the first day of the month after the medicaid coverage ends; or

Note: Enrollment in the PEBB program's MA or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(iii) No later than the end of the calendar year when their medicaid coverage ends if the retiree or survivor was also determined eligible under 42 U.S.C. § 1395w-114 and subsequently enrolled in a medicare Part D plan. Enrollment in the PEBB health plan will begin January 1st following the end of the calendar year when the medicaid coverage ends. The required forms must be received by the PEBB program no later than the last day of the calendar year in which the medicaid coverage ends.

(d) A subscriber who defers enrollment while enrolled in exchange coverage will have a one-time opportunity to enroll or reenroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment to the PEBB program:

(i) During the PEBB annual open enrollment period. The required forms must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When exchange coverage ends. The required forms and evidence of continuous enrollment must be received by the PEBB program no later than 60 days after coverage ends. PEBB health plan coverage begins the first day of the month after exchange coverage ends.

Note: Enrollment in the PEBB program's MA or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(e) A subscriber who defers enrollment while enrolled in CHAMPVA will have a one-time opportunity to enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment to the PEBB program:

(i) During the PEBB annual open enrollment period. The required forms must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When CHAMPVA coverage ends. The required forms and evidence of continuous enrollment must be received by the PEBB program no later than 60 days after coverage ends. PEBB health plan coverage begins the first day of the month after CHAMPVA coverage ends.

Note: Enrollment in the PEBB program's MA or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(7) A subscriber described in subsection (1) of this section who defers enrollment while enrolled in qualifying coverage as described in subsection (3) (a) through (e) of this section may later enroll themselves and their dependents in a PEBB health plan if they receive formal notice that the authority has determined it is more cost-effective to enroll them or their eligible dependents in PEBB medical than a medical assistance program.

(8) If a subscriber elects to enroll a dependent in PEBB health plan coverage as described in subsection (6) or (7) of this section, the dependent must be enrolled in the same PEBB medical and PEBB dental plan as the subscriber.

Exception: If a subscriber selects a medicare supplement plan or MA-PD plan, nonmedicare enrollees will be enrolled in the UMP Classic. If a subscriber selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(9) An enrolled retiree or a survivor who requests to voluntarily terminate their enrollment in PEBB retiree insurance coverage must do

so in writing. The written termination request must be received by the PEBB program. A retiree or a survivor who voluntarily terminates their enrollment in a PEBB health plan also terminates enrollment for all eligible dependents. Once coverage is terminated, a retiree or a survivor may not enroll again in the future unless they reestablish eligibility for PEBB insurance coverage by becoming newly eligible. Enrollment in a PEBB health plan will terminate on the last day of the month in which the PEBB program receives the termination request. If the termination request is received on the first day of the month, enrollment will terminate on the last day of the previous month.

Exception: When a subscriber or their dependent is enrolled in a MA plan, then enrollment will terminate on the last day of the month when the MA plan disenrollment form is received.

(10) When a retiree becomes eligible for the employer contribution toward PEBB benefits, PEBB retiree insurance coverage will be automatically deferred. The subscriber will be exempt from the deferral form requirement. ~~((When the subscriber is no longer eligible for the employer contribution toward PEBB benefits, they must enroll or defer PEBB retiree insurance coverage as described in WAC 182-12-171, 182-12-200, and this section.))~~

Note: When the subscriber is no longer eligible for the employer contribution toward PEBB benefits, they may enroll in PEBB retiree insurance coverage as described in WAC 182-12-171 or continue in a deferred status if they meet the requirements described in WAC 182-12-200 or this section.

[Statutory Authority: RCW 41.05.021, 41.05.160, and Policy Resolutions PEBB 2022-03 and 2022-04. WSR 22-13-165 (Admin #2022-02.04), § 182-12-205, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolution PEBB 2021-14. WSR 21-13-104 (Admin #2021-01.04), § 182-12-205, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. § 422.62(b) and § 423.38(c) and PEBB policy resolution 2020-05. WSR 20-16-063 (Admin #2020-02), § 182-12-205, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-205, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-205, filed 10/3/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-205, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-205, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-205, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-205, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-205, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-12-205, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-12-205, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-205, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-205, filed 10/1/08, effective 1/1/09; WSR 08-09-027 (Order 08-01), § 182-12-205, filed 4/8/08, effective 4/9/08; WSR 07-20-129 (Order 07-01), § 182-12-205, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.068. WSR 06-23-165 (Order 06-09), § 182-12-205, filed 11/22/06, effective 12/23/06. Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. WSR 05-16-046 (Order 05-01), § 182-12-205, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW

41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-205, filed 8/26/04, effective 1/1/05.]

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-12-262 When may subscribers enroll or remove eligible dependents? (1) **Enrolling dependents in public employees benefits board (PEBB) health plan coverage, supplemental dependent life insurance, and accidental death and dismemberment (AD&D) insurance.** A dependent must be enrolled in the same health plan coverage as the subscriber except as described in WAC 182-12-171 (1)(c). The subscriber must be enrolled in health plan coverage to enroll their dependent in health plan coverage except as provided in WAC 182-12-205 (3)(c). A dependent with more than one source of eligibility for enrollment in the PEBB and school employees benefits board (SEBB) programs is limited to a single enrollment in medical, dental, and vision plans in either the PEBB or SEBB program. Subscribers must satisfy the enrollment requirements as described in subsection (4) of this section and may enroll eligible dependents at the following times:

(a) **When the subscriber becomes eligible** and enrolls in PEBB benefits. If eligibility is verified the dependent's effective date will be as follows:

(i) PEBB health plan coverage will be the same as the subscriber's effective date;

(ii) Supplemental dependent life insurance or AD&D insurance, if elected, will be effective the first day of the month following the date the contracted vendor receives the required form or approves the enrollment. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage is effective.

(b) **During the annual open enrollment.** PEBB health plan coverage begins January 1st of the following year;

(c) **During special open enrollment.** Subscribers may enroll dependents during a special open enrollment as described in subsection (3) of this section;

(d) **When a National Medical Support Notice (NMSN)** requires a subscriber to cover a dependent child in health plan coverage as described in WAC 182-12-263; or

(e) **Any time during the calendar year for supplemental dependent life insurance or AD&D insurance** by submitting the required form to the contracted vendor for approval. Evidence of insurability may be required for supplemental dependent life insurance but will not be required for supplemental AD&D insurance. Supplemental dependent life insurance or AD&D insurance will be effective the first day of the month following the date the contracted vendor receives the required form or approves the enrollment. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage is effective.

(2) **Removing dependents from a subscriber's PEBB health plan coverage or supplemental dependent life insurance or AD&D insurance.**

(a) **A dependent's eligibility for enrollment in PEBB health plan coverage or supplemental dependent life insurance or AD&D insurance ends the last day of the month the dependent** meets the eligibility criteria as described in WAC 182-12-250 or 182-12-260. Subscribers

must provide notice when a dependent is no longer eligible due to divorce, annulment, dissolution, or qualifying event of a dependent ceasing to be eligible as a dependent child, as described in WAC 182-12-260(3). For supplemental dependent life insurance or AD&D insurance, subscribers must notify the contracted vendor on the required form, in writing, or by telephone when a dependent is no longer eligible. Contact information for the contracted vendor may be found at hca.wa.gov/employees-contact-plan. For PEBB health plan coverage, the notice must be received within 60 days of the last day of the month the dependent loses eligibility. Employees must notify their employing agency when a dependent is no longer eligible for PEBB health plan coverage, except as required under WAC 182-12-260 (3)(g)(ii). All other subscribers must notify the PEBB program. Consequences for not submitting notice within the required 60 days include, but are not limited to:

(i) The dependent may lose eligibility to continue PEBB medical or dental under one of the continuation coverage options described in WAC 182-12-270;

(ii) The subscriber may be billed for claims paid by the health plan for services that were rendered after the dependent lost eligibility as described in WAC 182-12-270;

(iii) The subscriber may not be able to recover subscriber-paid insurance premiums for dependents that lost their eligibility; and

(iv) The subscriber may be responsible for premiums paid by the state for the dependent's health plan coverage after the dependent lost eligibility.

(b) **Employees have the opportunity to remove eligible dependents:**

(i) During the annual open enrollment. The dependent will be removed from PEBB health plan coverage the last day of December;

(ii) During a special open enrollment as described in subsections (3) and (4)(f) of this section;

(iii) When a NMSN requires a spouse, former spouse, or other individual to provide health plan coverage for a dependent who is already enrolled in PEBB coverage, and that health plan coverage is in fact provided as described in WAC 182-12-263(2); or

(iv) Any time during the calendar year from supplemental dependent life insurance or AD&D insurance by submitting a request to the contracted vendor on the required form, in writing, or by telephone. Contact information for the contracted vendor may be found at hca.wa.gov/employees-contact-plan.

(c) **Retirees (see WAC 182-12-171, 182-12-180, or 182-12-211), survivors (see WAC 182-12-180, 182-12-250, or 182-12-265), and PEBB continuation coverage enrollees (see WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, or 182-12-148) may remove dependents** from their PEBB health plan coverage outside of the annual open enrollment or a special open enrollment by providing written notice to the PEBB program. The dependent will be removed from the subscriber's PEBB health plan coverage prospectively. PEBB health plan coverage will end on the last day of the month in which the written notice is received by the PEBB program or on the last day of the month specified in the subscriber's written notice, whichever is later. If the written notice is received on the first day of the month, PEBB health plan coverage will end on the last day of the previous month. PEBB continuation coverage enrollees may remove dependents from supplemental dependent life insurance or AD&D insurance any time during the calendar year by submitting a request to the contracted vendor on the required form, in

writing, or by telephone. Contact information for the contracted vendor may be found at hca.wa.gov/employees-contact-plan.

(3) **Special open enrollment.**

(a) Subscribers may enroll or remove their eligible dependents outside of the annual open enrollment if a special open enrollment event occurs. The change in enrollment must be allowable under the Internal Revenue Code and Treasury Regulations, and correspond to and be consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependents, or both. To disenroll from a medicare advantage (MA) or medicare advantage-prescription drug (MA-PD) plan, the change in enrollment must be allowable under 42 C.F.R. Secs. 422.62(b) and 423.38(c).

(i) PEBB health plan coverage will begin the first of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the change in enrollment begins on that day except for a MA or MA-PD plan which will begin the first day of the month following the date the form is received.

(ii) PEBB health plan coverage for an extended dependent or a dependent with a disability will begin the first day of the month following the later of the event date or eligibility certification.

(iii) The dependent will be removed from the subscriber's PEBB health plan coverage the last day of the month following the later of the event date or the date the required form and proof of the event is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(iv) If the special open enrollment is due to the birth or adoption of a child, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of a child, PEBB health plan coverage will begin or end as follows:

- For the newly born child, PEBB health plan coverage will begin the date of birth;
- For a newly adopted child, PEBB health plan coverage will begin on the date of placement or the date a legal obligation is assumed in anticipation of adoption, whichever is earlier;
- For a spouse or state registered domestic partner of a subscriber, PEBB health plan coverage will begin the first day of the month in which the event occurs. The spouse or state registered domestic partner will be removed from PEBB health plan coverage the last day of the month in which the event occurred.

(v) Supplemental dependent life insurance or AD&D insurance will begin the first day of the month following the date the contracted vendor receives the required form or approves the enrollment. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage is effective.

(b) The events described in this subsection (3)(b)(i) of this section create a special open enrollment to enroll eligible dependents in supplemental dependent life insurance or AD&D insurance. Any one of the following events may create a special open enrollment to enroll or remove eligible dependents from PEBB health plan coverage:

- (i) Subscriber acquires a new dependent due to:
- Marriage or registering a state registered domestic partnership;
 - Birth, adoption, or when a subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or
 - A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iii) Subscriber has a change in employment status that affects the subscriber's eligibility for their employer contribution toward their employer-based group health plan;

(iv) The subscriber's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group health plan;

Note: As used in (iv) of this subsection, "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 54.9801-6.

(v) Subscriber or a subscriber's dependent has a change in enrollment under an employer-based group health plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(vi) Subscriber's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States and that change in residence resulted in the dependent losing their health insurance;

(vii) A court order requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(viii) Subscriber or a subscriber's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(ix) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or CHIP;

(x) Subscriber's dependent enrolls in medicare, or loses eligibility for medicare.

(4) Enrollment requirements. A subscriber must submit the required forms within the time frames described in this subsection. For PEBB health plan coverage, an employee must submit the required forms to their employing agency, a subscriber on continuation coverage or PEBB retiree insurance coverage must submit the required forms to the PEBB program. In addition to the required forms indicating dependent enrollment, the subscriber must provide the required documents as evidence of the dependent's eligibility; or as evidence of the event that created the special open enrollment. All required forms and documents must be received within the required time frames. An employee enrolling a dependent in supplemental dependent life insurance or AD&D insurance must submit the required form to the contracted vendor for approval within the required time frames.

Note: When enrolling a state registered domestic partner or a state registered domestic partner's child, a subscriber must certify that the state registered domestic partner or state registered domestic partner's child is a tax dependent on the required form; otherwise, the PEBB program will assume the state registered domestic partner or state registered domestic partner's child is not a tax dependent.

(a) If a subscriber wants to enroll their eligible dependents in PEBB health plan coverage when the subscriber becomes eligible to enroll in PEBB benefits, the subscriber must include the dependent's enrollment information on the required forms and submit them within the required time frame described in WAC 182-08-197, 182-12-171, 182-12-180, 182-12-211, or 182-12-250. If an employee enrolls a dependent in supplemental dependent life insurance or AD&D insurance,

the required form must be submitted within the required time frame described in WAC 182-08-197.

(b) If a subscriber wants to enroll eligible dependents in PEBB health plan coverage during the PEBB annual open enrollment period, the required forms must be received no later than the last day of the annual open enrollment.

(c) If a subscriber wants to enroll newly eligible dependents, the required forms must be received no later than 60 days after the dependent becomes eligible. An employee enrolling a dependent in supplemental dependent life insurance or AD&D insurance must submit the required form to the contracted vendor for approval. An employee may enroll a dependent in supplemental dependent life insurance up to the guaranteed issue coverage amount without evidence of insurability if the required form is submitted to the contracted vendor as required. Evidence of insurability will be required for supplemental dependent life insurance over the guaranteed issue coverage amount. Evidence of insurability is not required for supplemental AD&D insurance.

(d) If a subscriber wants to enroll a newborn or child whom the subscriber has adopted or has assumed a legal obligation for total or partial support in anticipation of adoption in PEBB health plan coverage, the subscriber should notify the PEBB program by submitting the required forms as soon as possible to ensure timely payment of claims. If adding the child increases the premium, the required forms must be received no later than 60 days after the date of the birth, adoption, or the date the legal obligation is assumed for total or partial support in anticipation of adoption. An employee enrolling a dependent in supplemental dependent life insurance or AD&D insurance must submit the required form to the contracted vendor for approval no later than 60 days after the date of the birth, adoption, or the date the legal obligation is assumed for total or partial support in anticipation of adoption. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage can become effective.

(e) If the subscriber wants to enroll a child age 26 or older as a child with a disability in PEBB health plan coverage, the required forms must be received no later than 60 days after the child reaches age 26 or within the relevant time frame described in (a), (b), and (f) of this subsection. To recertify an enrolled child with a disability, the required forms must be received by the PEBB program or the contracted vendor by the child's scheduled PEBB health plan coverage termination date.

(f) If the subscriber wants to change a dependent's enrollment status in PEBB health plan coverage during a special open enrollment, the required forms must be received no later than 60 days after the event that creates the special open enrollment.

Exception: If the subscriber wants to change a dependent's enrollment or disenrollment in a medicare advantage or medicare advantage-prescription drug plan, the required forms must be received during a special enrollment period as allowed under 42 C.F.R. Secs. 422.62(b) and 423.38(c).

(g) An employee may enroll a dependent in supplemental dependent life insurance or AD&D insurance at any time during the calendar year by submitting the required form to the contracted vendor for approval. Evidence of insurability may be required for supplemental dependent life insurance but will not be required for supplemental AD&D insurance.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-12-262, filed 6/21/22, effective 1/1/23; WSR

21-13-106 (Admin #2021-01.06), § 182-12-262, filed 6/18/21, effective 1/1/22; WSR 20-16-062 (Admin #2020-03), § 182-12-262, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-262, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-262, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-12-262, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-262, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-12-262, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-262, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160, 2013 2nd sp.s. c 4 and PEBB policy resolutions. WSR 14-08-040, § 182-12-262, filed 3/26/14, effective 4/26/14. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-12-262, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-262, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-12-262, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-12-262, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-262, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-262, filed 10/1/08, effective 1/1/09; WSR 08-09-027 (Order 08-01), § 182-12-262, filed 4/8/08, effective 4/9/08.]

AMENDATORY SECTION (Amending WSR 22-13-160, filed 6/21/22, effective 1/1/23)

WAC 182-12-265 What options for continuing health plan enrollment are available to a surviving spouse, state registered domestic partner, or child, if an employee, a school employee, or a retiree dies? The survivor of an eligible employee, an eligible school employee, or a retiree who meets the eligibility criteria and submits the required forms as described in subsection (1), (2), or (3) of this section is eligible to enroll or defer enrollment as a survivor under public employees benefits board (PEBB) retiree insurance coverage. If enrolling in PEBB retiree insurance coverage, the survivor's first premium payment and applicable premium surcharges are due to the health care authority (HCA) no later than 45 days after the election period ends as described in subsection (1), (2), or (3) of this section. Following the survivor's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-08-180 (1)(c).

(1) An employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible employee may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage provided they immediately begin receiving a monthly retirement benefit from any state of Washington sponsored retirement system. To satisfy the requirement to immediately receive a monthly retirement benefit they must begin receiving monthly benefit payments no later than 120 days from the date of death of the employee. The required forms to enroll or defer enrollment must be received by the

PEBB program no later than 60 days after the later of the date of the employee's death or the date the survivor's PEBB insurance coverage ends.

Note: Enrollment in the PEBB program's medicare advantage (MA) or medicare advantage-prescription drug (MA-PD) plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in Uniform Medical Plan (UMP) Classic during the gap month(s) prior to when the MA-PD coverage begins.

(a) The employee's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The employee's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

Notes: If a spouse, state registered domestic partner, or child of an eligible employee is not eligible for a monthly retirement benefit, they are not eligible to enroll as a survivor under PEBB retiree insurance coverage. However, they may continue health plan enrollment as described in WAC 182-12-146.

Eligibility for the surviving spouse, surviving state registered domestic partner, or surviving child of an employee of a participating employer group will cease at the end of the month in which the group's contract with the authority ends (~~unless the employer group is an educational service district~~).

Eligibility for the surviving spouse, surviving state registered domestic partner, or surviving child of an elected and full-time appointed official of the legislative and executive branches of state government is described in WAC 182-12-180.

(2) A retiree's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible retiree may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the retiree's death.

(a) The retiree's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The retiree's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

(c) If a spouse, state registered domestic partner, or child of an eligible retiree is not enrolled in a PEBB health plan at the time of the retiree's death, the survivor is eligible to enroll or defer enrollment as a survivor under PEBB retiree insurance coverage. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the retiree's death. For a survivor to enroll in a PEBB health plan who is not enrolled due to the retiree electing to defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 or 182-12-205, the survivor must also provide evidence of continuous enrollment in one or more qualifying coverages as described in WAC 182-12-205 (3)(a) through (e) from the most recent open enrollment for which the survivor was not enrolled in a PEBB medical plan prior to the retiree's death. A gap of 31 days or less is allowed between the date PEBB retiree insurance coverage was deferred and the start date of a qualifying coverage, and between each period of enrollment in qualifying coverages during the deferral period.

Note: Eligibility for the surviving spouse, surviving state registered domestic partner, or surviving child of an employer group retiree will cease at the end of the month in which the group's contract with the authority ends (~~unless the employer group is an educational service district~~).

(3) A school employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible school employee may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage at the time of the school employee's death, provided the employee died on or after October 1, 1993. The survivor must immediately begin receiving a retirement benefit allowance under chapter 41.32, 41.35 or 41.40 RCW. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the later of the date of the school employ-

ee's death or the date the survivor's educational service district coverage, or school employees benefits board (SEBB) insurance coverage ends.

Note: Enrollment in the PEBB program's MA or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(a) The school employee's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The school employee's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

Note: If a spouse, state registered domestic partner, or child of an eligible school employee is not eligible for a retirement benefit allowance, they are not eligible to enroll as a survivor under PEBB retiree insurance coverage. However, a spouse, state registered domestic partner, or child of an eligible school employee enrolled in SEBB insurance coverage may continue health plan enrollment as described in WAC 182-31-090.

(4) If premiums and applicable premium surcharges received by the HCA are sufficient as described in WAC 182-08-180 (1)(d)(ii) to maintain PEBB health plan enrollment after the employee, school employee, or retiree's death, the PEBB program will consider the payment as notice of the survivor's intent to continue enrollment.

If the survivor's enrollment ended due to the death of the employee, school employee, or retiree, the PEBB program will reinstate the survivor's enrollment without a gap subject to payment of premium and applicable premium surcharges.

(5) If a survivor elects to enroll a dependent in PEBB health plan coverage, the dependent must be enrolled in the same PEBB medical and PEBB dental plan as the survivor.

Exception: If a survivor selects a medicare supplement plan or MA-PD plan, nonmedicare enrollees will be enrolled in the UMP Classic. If a survivor selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(6) In order to avoid duplication of group medical coverage, a survivor may defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 and 182-12-205.

[Statutory Authority: RCW 41.05.021, 41.05.160, and Policy Resolution PEBB 2022-03. WSR 22-13-160 (Admin #2022-02.03), § 182-12-265, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolution PEBB 2021-14. WSR 21-13-104 (Admin #2021-01.04), § 182-12-265, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. § 422.62(b) and § 423.38(c) and PEBB policy resolution 2020-05. WSR 20-16-063 (Admin #2020-02), § 182-12-265, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-12-265, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-265, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-12-265, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-265, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-12-265, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-265, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-12-265, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 09-23-102 (Order 09-02), § 182-12-265, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-12-265, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-12-265, filed 10/3/07, ef-

fective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.068. WSR 06-23-165 (Order 06-09), § 182-12-265, filed 11/22/06, effective 12/23/06. Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. WSR 05-16-046 (Order 05-01), § 182-12-265, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-265, filed 8/26/04, effective 1/1/05.]

WSR 23-10-075

PROPOSED RULES

HEALTH CARE AUTHORITY

[Admin #2023-02.01—Filed May 2, 2023, 2:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-075.

Title of Rule and Other Identifying Information: Revising WAC 182-08-196 What happens if my health plan becomes unavailable due to a change in contracted service area or eligibility for Medicare? and 182-08-198 When may a subscriber change health plans?

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend existing rules to support the public employees benefits board (PEBB) program:

1. Implement PEBB policy resolutions:

- Amended WAC 182-08-196 and 182-08-198 to implement Resolutions PEBB 2023-01 when a subscriber has a change in residence that affects medical plan availability and PEBB 2023-02 when a subscriber is involuntarily terminated by a medicare advantage (MA) or medicare advantage-prescription drug (MA-PD) plan.

2. Make other technical amendments:

- Amended WAC 182-08-196 to update the title, add when the required forms electing a MA-PD plan must be received by the PEBB program, add an exception for an MA or MA-PD plan's enrollment effective date, and update subsections' references within the section.
- Amended WAC 182-08-198 to move a note up to the beginning of subsection (2), add an exception for an MA or MA-PD plan's enrollment effective date, clarify when a subscriber may select a dental plan when there is a change in residence, and add a new special enrollment event when there is a substantial decrease in the providers available under a PEBB medical plan.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160; Policy Resolutions PEBB 2023-01 and 2023-02.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023
Wendy Barcus
Rules Coordinator

OTS-4514.1

AMENDATORY SECTION (Amending WSR 20-16-062, filed 7/28/20, effective 1/1/21)

WAC 182-08-196 What happens if my health plan becomes unavailable (~~due to a change in contracted service area or eligibility for medicare~~)? (1) A subscriber must elect a new health plan when their previously selected health plan becomes unavailable due to a change in contracting service area as described below:

(a) When a health plan becomes unavailable during the plan year, a subscriber must elect a new health plan no later than (~~sixty~~) 60 days after the date their previously selected health plan becomes unavailable.

(i) An employee must submit the required forms to their employing agency electing their new health plan.

(ii) Any other subscriber must submit the required forms to the PEBB program electing their new health plan.

(iii) The effective date of the change in health plan will be the first day of the month following the later of the date the health plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in health plan begins on that day.

(b) When a health plan becomes unavailable at the beginning of the next plan year, a subscriber must elect a new health plan no later than the last day of the public employees benefits board (PEBB) annual open enrollment.

(i) An employee must submit the required forms to their employing agency electing their new health plan.

(ii) Any other subscriber must submit the required forms to the PEBB program electing their new health plan.

(iii) The effective date of the change in health plan will be January 1st of the following year.

(c) A subscriber who fails to elect a new health plan within the required time period as required in (a) or (b) of this subsection will be enrolled in a health plan designated by the director or designee.

(2) A subscriber must elect a new health plan when their previously selected health plan becomes unavailable due to the subscriber or subscriber's dependent ceasing to be eligible for their current health plan because of enrollment in medicare as described below:

(a) The required forms electing a new health plan must be received no later than ~~((sixty))~~ 60 days after the date their previously selected health plan becomes unavailable.

Exception: The required forms electing a new medicare advantage (MA) or medicare advantage-prescription drug (MA-PD) plan must be received no later than two months after the date their previously selected health plan becomes unavailable.

~~((b))~~ (i) An employee must submit the required forms to their employing agency electing their new health plan.

~~((e))~~ (ii) Any other subscriber must submit the required forms to the PEBB program electing their new health plan.

~~((d))~~ (iii) The effective date of the change in health plan will be the first day of the month following the later of the date the health plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in health plan begins on that day except for a MA or MA-PD plan which will begin the first day of the month following the date the form is received.

~~((e))~~ (b) A subscriber who is enrolled in a ~~((high-deductible))~~ consumer directed health plan ((HDHP)) CDHP with a health savings account (HSA), and fails to elect a new health plan within the required time period as required in this subsection, will not be eligible to receive contributions to the HSA. A subscriber will be liable for any tax penalties resulting from contributions made when they are no longer eligible.

(3) A subscriber must elect a new medical plan when their previously selected medical plan becomes unavailable due to a change in their residence as described below.

(a) When a subscriber's medical plan becomes unavailable during the plan year, a subscriber must elect a new medical plan no later than 60 days after the date their previously selected medical plan becomes unavailable as described in WAC 182-08-198 (2) (e).

(i) An employee must submit the required forms to their employing agency electing their new medical plan.

(ii) Any other subscriber must submit the required forms to the PEBB program electing their new medical plan.

(iii) The effective date of the change in medical plan will be the first day of the month following the later of the date the medical plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in medical plan begins on that day except for a MA or MA-PD plan which will begin the first day of the month following the date the form is received.

(b) A subscriber who fails to elect a new medical plan within the required time period as required in (a) of this subsection will be enrolled in a public employees benefits board medical plan designated by the director or designee.

(4) When a subscriber or their dependent must be disenrolled by a MA or MA-PD plan as required by federal law, the subscriber and their enrolled dependents will be enrolled in a PEBB medical plan as designated by the director or designee. The new medical plan coverage will begin the first day of the month following the date the MA or MA-PD plan is terminated.

(5) A subscriber enrolled in a health plan as described in subsection (1) (c) (~~(or (2) (e))~~), (2) (b), (3) (b), or (4) of this section may not change health plans except as allowed in WAC 182-08-198.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-08-196, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-196, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-196, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-196, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-196, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-08-196, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-08-196, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-08-196, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-08-196, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-08-196, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. WSR 05-16-046 (Order 05-01), § 182-08-196, filed 7/27/05, effective 8/27/05. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-08-196, filed 8/26/04, effective 1/1/05; WSR 03-17-031 (Order 02-07), § 182-08-196, filed 8/14/03, effective 9/14/03.]

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-08-198 When may a subscriber change health plans? A subscriber may change health plans at the following times:

(1) **During the annual open enrollment:** A subscriber may change health plans during the public employees benefits board (PEBB) annual open enrollment period. A subscriber must submit the required enrollment forms to change their health plan. An employee submits the enrollment forms to their employing agency. Any other subscriber submits the enrollment forms to the PEBB program. The required enrollment forms must be received no later than the last day of the annual open enrollment. Enrollment in the new health plan will begin January 1st of the following year.

(2) **During a special open enrollment:** A subscriber may revoke their health plan election and make a new election outside of the annual open enrollment if a special open enrollment event occurs. A special open enrollment event must be an event other than an employee gaining initial eligibility for PEBB benefits as described in WAC 182-12-114 or regaining eligibility for PEBB benefits as described in WAC 182-08-197. The change in enrollment must be allowable under Internal Revenue Code and Treasury regulations, and correspond to and be

consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependent, or both.

A subscriber may not change their health plan during a special open enrollment if their state registered domestic partner or state registered domestic partner's child is not a tax dependent. A subscriber may change their health plan as described in subsection (1) of this section.

To disenroll from a medicare advantage (MA) plan or medicare advantage-prescription drug (MA-PD) plan, the change in enrollment must be allowable under 42 C.F.R. Secs. 422.62(b) and 423.38(c). To make a health plan change, a subscriber must submit the required enrollment forms (and a completed disenrollment form, if required). The forms must be received no later than 60 days after the event occurs, except as described in (i) of this subsection. An employee submits the enrollment forms to their employing agency. Any other subscriber submits the enrollment forms to the PEBB program. In addition to the required forms, a subscriber must provide evidence of the event that created the special open enrollment. New health plan coverage will begin the first day of the month following the later of the event date or the date the form is received. If that day is the first of the month, the change in enrollment begins on that day except for a MA or MA-PD plan which will begin the first day of the month following the date the form is received.

Exception: When a subscriber or their dependent is enrolled in a (~~medicare advantage or medicare advantage-prescription drug~~) MA or MA-PD plan, they may disenroll during a special enrollment period as allowed under 42 C.F.R. Secs. 422.62(b) and 423.38(c). The new medical plan coverage will begin the first day of the month following the date the medicare advantage plan disenrollment form is received.

If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, health plan coverage will begin the month in which the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption occurs. If the special open enrollment is due to the enrollment of an extended dependent or a dependent with a disability, the change in health plan coverage will begin the first day of the month following the later of the event date or eligibility certification. Any one of the following events may create a special open enrollment:

(a) Subscriber acquires a new dependent due to:

(i) Marriage or registering a state registered domestic partnership;

(ii) Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship.

((Note: ~~A subscriber may not change their health plan if their state registered domestic partner or state registered domestic partner's child is not a tax dependent.))~~

(b) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Subscriber has a change in employment status that affects the subscriber's eligibility for their employer contribution toward their employer-based group health plan;

(d) The subscriber's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group health plan;

Note: As used in (d) of this subsection, "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(e) Subscriber or a subscriber's dependent has a change in residence that affects health plan availability.

(i) If the subscriber (~~(moves)~~) has a change in residence and the subscriber's current (~~(health)~~) medical plan is (~~(not)~~) no longer available (~~(in the new location)~~), the subscriber must select a new (~~(health)~~) medical plan (~~(, otherwise there will be limited accessibility to network providers and covered services)~~) as described in WAC 182-08-196(3);

(ii) If the subscriber or the subscriber's dependent has a change in residence and the subscriber's current dental plan does not have available providers within 50 miles of the subscriber or the subscriber's dependent's new residence, the subscriber may select a new dental plan;

(Exception: A dental plan is considered available if a provider is located within 50 miles of the subscriber's new residence.))

(f) A court order requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(g) Subscriber or a subscriber's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(h) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or CHIP;

(i) Subscriber or a subscriber's dependent enrolls in coverage under medicare, or the subscriber or a subscriber's dependent loses eligibility for coverage under medicare, or enrolls in or terminates enrollment in a medicare advantage-prescription drug or a Part D plan. If the subscriber's current medical plan becomes unavailable due to the subscriber's or a subscriber's dependent's enrollment in medicare, the subscriber must select a new medical plan as described in WAC 182-08-196(2).

(i) A subscriber enrolled in PEBB retiree insurance coverage or an eligible subscriber enrolled in Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage has six months from the date of their or their dependent's enrollment in medicare Part B to enroll in a PEBB medicare supplement plan for which they or their dependent is eligible. The forms must be received by the PEBB program no later than six months after the enrollment in medicare Part B for either the subscriber or the subscriber's dependent;

(ii) A subscriber enrolled in PEBB retiree insurance coverage or an eligible subscriber enrolled in Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage has seven months to enroll in a medicare advantage or medicare advantage-prescription drug plan that begins three months before they or their dependent first enrolled in both medicare Part A and Part B and ends three months after the month of medicare eligibility. A subscriber may also enroll themselves or their dependent in a medicare advantage or medicare advantage-prescription drug plan before their last day of the medicare Part B initial enrollment period. The forms must be received by the PEBB program no later than the last day of the month prior to the month the subscriber or the subscriber's dependent enrolls in the medicare advantage or medicare advantage-prescription drug plan.

(j) Subscriber or a subscriber's dependent's current medical plan becomes unavailable because the subscriber or enrolled dependent is no longer eligible for a health savings account (HSA). The authority may require evidence that the subscriber or subscriber's dependent is no longer eligible for an HSA;

(k) Subscriber or a subscriber's dependent experiences a disruption of care for active and ongoing treatment, that could function as a reduction in benefits for the subscriber or the subscriber's dependent. A subscriber may not change their health plan election if the subscriber's or dependent's physician stops participation with the subscriber's health plan unless the PEBB program determines that a continuity of care issue exists. The PEBB program will consider but not limit its consideration to the following:

(i) Active cancer treatment such as chemotherapy or radiation therapy;

(ii) Treatment following a recent organ transplant;

(iii) A scheduled surgery;

(iv) Recent major surgery still within the postoperative period;

or

(v) Treatment for a high-risk pregnancy;

(1) The PEBB program determines that there has been a substantial decrease in the providers available under a PEBB medical plan.

(3) If the employee is having premiums taken from payroll on a pretax basis, a medical plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-08-198, filed 6/21/22, effective 1/1/23; WSR 21-13-106 (Admin #2021-01.06), § 182-08-198, filed 6/18/21, effective 1/1/22; WSR 20-16-062 (Admin #2020-03), § 182-08-198, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-198, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-198, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-198, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-198, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-198, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160, 2013 2nd sp.s. c 4 and PEBB policy resolutions. WSR 14-08-040, § 182-08-198, filed 3/26/14, effective 4/26/14. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-198, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-08-198, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-08-198, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-08-198, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-08-198, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-08-198, filed 10/1/08, effective 1/1/09; WSR 08-09-027 (Order 08-01), § 182-08-198, filed 4/8/08, effective 4/9/08; WSR 07-20-129 (Order 07-01), § 182-08-198, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.068. WSR 06-23-165 (Order 06-09), § 182-08-198, filed 11/22/06, effective 12/23/06. Statutory Authority: RCW 41.05.160, 41.05.350, and

41.05.165. WSR 05-16-046 (Order 05-01), § 182-08-198, filed 7/27/05,
effective 8/27/05.]

WSR 23-10-076

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2023-02.02—Filed May 2, 2023, 2:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-075.

Title of Rule and Other Identifying Information: Revising WAC 182-08-187 How do employing agencies and contracted vendors correct enrollment errors and is there a limit on retroactive enrollment?

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1495, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend an existing rule to support the public employees benefits board (PEBB) program:

- Amended WAC 182-08-187 to implement policy resolution PEBB 2022-01 when an employee returns to work from active duty.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160; Policy Resolution PEBB 2022-01.

Statute Being Implemented: RCW 41.05.021 and 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: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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(4).

Scope of exemption for rule proposal:

Is fully exempt.

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. These rules do not apply to small businesses.

May 2, 2023
Wendy Barcus
Rules Coordinator

OTS-4554.1

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-08-187 How do employing agencies and contracted vendors correct enrollment errors and is there a limit on retroactive enrollment?

(1) An employing agency or contracted vendor that makes one or more of the following enrollment errors must correct the error as described in subsections (2) through (5) of this section.

(a) Failure to timely notify an employee of their eligibility for public employee benefits board (PEBB) benefits and the employer contribution as described in WAC 182-12-113(2);

(b) Failure to enroll the employee and their dependents in PEBB benefits as elected by the employee, if the elections were timely;

(c) Failure to enroll an employee and their dependents in PEBB benefits as described in WAC 182-08-197 (1)(b);

(d) Failure to accurately reflect an employee's premium surcharge attestation on the employee's account;

(e) Enrolling an employee or their dependent in PEBB insurance coverage when they are not eligible as described in WAC 182-12-114 or 182-12-260 and it is clear there was no fraud or intentional misrepresentation by the employee involved; or

(f) Providing incorrect information regarding PEBB benefits to the employee that they relied upon.

(2) The employing agency or the applicable contracted vendor must enroll the employee and the employee's dependents, as elected, or terminate enrollment in PEBB benefits as described in subsection (3) of this section, reconcile premium payments and applicable premium surcharges as described in subsection (4) of this section, and provide recourse as described in subsection (5) of this section.

(3) Enrollment or termination.

(a) PEBB medical and dental enrollment is effective the first day of the month following the date the enrollment error is identified, unless the authority determines additional recourse is warranted, as described in subsection (5) of this section. If the enrollment error is identified on the first day of the month, the enrollment correction is effective that day;

Exception: When an employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward PEBB benefits, they regain eligibility for the employer contribution toward PEBB benefits the day they return from active duty. Employer-paid PEBB benefits will begin the first day of the month in which they return from active duty.

(b) Basic life, basic accidental death and dismemberment (AD&D), employer-paid long-term disability (LTD) insurance, and employee-paid LTD insurance (unless the employee declines the employee-paid LTD in-

insurance as described in WAC 182-08-197(1)) enrollment is retroactive to the first day of the month following the day the employee became newly eligible, or the first day of the month the employee regained eligibility, as described in WAC 182-08-197. If the employee became newly eligible on the first working day of a month, basic life, basic AD&D, employer-paid LTD insurance, and employee-paid LTD insurance begin on that date;

Exception: When an employee who is called to active duty in the uniformed services under USERRA loses eligibility for the employer contribution toward PEBB benefits, they regain eligibility for the employer contribution toward PEBB benefits the day they return from active duty. Employer-paid PEBB benefits will begin the first day of the month in which they return from active duty.

(c) Supplemental life, supplemental AD&D, and employee-paid LTD insurance enrollment is retroactive to the first day of the month following the day the employee became newly eligible if the employee elects to enroll in this coverage (or if previously elected, the first of the month following the signature date on the employee's application for this coverage). If an employing agency enrollment error occurred when the employee regained eligibility for the employer contribution following a period of leave as described in WAC 182-08-197(3):

(i) Supplemental life, supplemental AD&D, and employee-paid LTD insurance is enrolled the first day of the month the employee regained eligibility, at the same level of coverage the employee continued during the period of leave, without evidence of insurability.

(ii) If the employee was not eligible to continue employee-paid LTD insurance during the period of leave as described in WAC 182-12-133, employee-paid LTD insurance is reinstated the first day of the month the employee regained eligibility, to the level of coverage the employee was enrolled in prior to the period of leave, without evidence of insurability.

(iii) If the employee was eligible to continue supplemental life insurance, supplemental AD&D insurance, and employee-paid LTD insurance under the period of leave but did not, the employee must provide evidence of insurability and receive approval from the contracted vendor.

(d) If the employee is eligible and elects (or elected) to enroll in the medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP), enrollment is limited to 60 days prior to the date enrollment is processed, but not earlier than the current plan year. If an employee was not enrolled in a medical FSA, limited purpose FSA, or DCAP as elected, the employee may either participate at the amount originally elected with a corresponding increase in contributions for the balance of the plan year, or participate at a reduced amount for the plan year by maintaining the per-pay period contribution in effect;

(e) If the employee or their dependent was not eligible but still enrolled as described in subsection (1)(e) of this section, the employee's or their dependent's PEBB benefits will be terminated prospectively effective as of the last day of the month.

(4) Premium payments.

(a) The employing agency must remit to the authority the employer contribution and the employee contribution for health plan premiums, applicable premium surcharges, basic life, basic AD&D, and employer-paid LTD starting the date PEBB benefits begins as described in subsections (3) and (5)(a)(i) of this section. If a state agency failed to notify a newly eligible employee of their eligibility for PEBB benefits, the state agency may only collect the employee contribution for health plan premiums and applicable premium surcharges for coverage for the months after the employee was notified.

(b) When an employing agency fails to correctly enroll the amount of employee-paid LTD insurance elected by the employee, premiums will be corrected as follows:

(i) When additional premiums are due to the authority, the employee is responsible for premiums for the most recent 24 months of coverage. The employing agency is responsible for additional months of premiums.

(ii) When a premium refund is due to the employee, the LTD insurance contracted vendor is responsible for premium refunds for the most recent 24 months of coverage. The employing agency is responsible for additional months of premium refund.

(c) When an employing agency mistakenly enrolls an employee or their dependent as described in subsection (1)(e) of this section, premiums and any applicable premium surcharges will be refunded by the employing agency to the employee without rescinding the insurance coverage.

(5) **Recourse.**

(a) Employee eligibility for PEBB benefits begins on the first day of the month following the date eligibility is established as described in WAC 182-12-114. Dependent eligibility is described in WAC 182-12-260, and dependent enrollment is described in WAC 182-12-262. When retroactive correction of an enrollment error is limited as described in subsection (3)(b), (c) and (d) of this section, the employing agency must work with the employee, and receive approval from the authority, to implement retroactive PEBB benefits within the following parameters:

(i) Retroactive enrollment in a PEBB insurance coverage;

(ii) Reimbursement of claims paid;

(iii) Reimbursement of amounts paid by the employee or dependent for medical and dental premiums;

(iv) Reimbursement of amounts paid by the employee for the premium surcharges;

(v) Other legal remedy received or offered; or

(vi) Other recourse, upon approval by the authority.

(b) Recourse must not contradict a specific provision of federal law or statute and does not apply to requests for noncovered services or in the case of an individual who is not eligible for PEBB benefits.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-13-158 (Admin #2022-01), § 182-08-187, filed 6/21/22, effective 1/1/23. Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions PEBB 2021-11 and 2021-12. WSR 21-13-103 (Admin #2021-01.03), § 182-08-187, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-08-187, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-187, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-187, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-187, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-187, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-08-187, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-187, filed 9/25/14, effective 1/1/15. Statutory

Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-187, filed 10/28/13, effective 1/1/14.]

WSR 23-10-080
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-09—Filed May 2, 2023, 4:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-057 filed on October 14, 2020.

Title of Rule and Other Identifying Information: Puget Sound region western gray squirrel, WAC 220-200-100 and 220-610-010.

Hearing Location(s): On June 23-24, 2023, at 8:00 a.m., in Seattle, Washington; or join remotely, <https://us06web.zoom.us/j/85432269613>, Webinar ID 854 3226 9613; or phone 253-215-8782 US. 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: On or after June 23, 2023.

Submit Written Comments to: Wildlife Program, P.O. Box 43200, Olympia, WA 98504, email gray-squirrel@PublicInput.com, fax 360-902-2162, phone 855-925-2801, project code 6483, public comment URL <https://publicinput.com/gray-squirrel>, SEPA email gray-squirrel-sepa@PublicInput.com, by June 22, 2023.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov, <http://wdfw.wa.gov/accessibility/requests-accommodation>, by June 2, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule amendment proposal, if adopted, reclassifies the western gray squirrel from threatened to endangered.

Anticipated effects include communicating a higher level of conservation concern for the species, their conservation needs, and recovery actions with partners and the public. Additionally, there is an increased penalty for unlawful taking under RCW 77.15.120.

Finally, the western gray squirrel already has a recovery plan required by WAC 220-610-110.

If the status change is adopted, western gray squirrel will be removed from the list of threatened species in WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished, and added to the list of endangered species under WAC 220-610-010.

Reasons Supporting Proposal: Important known threats to the western gray squirrel populations in Washington are:

- Habitat loss.
- Degradation and fragmentation.
- Small population size and isolation.
- Disease and highway mortality.

Western gray squirrel habitat loss linked to logging, wildfire, land conversion, and fire. Climate change is both a current and potential future threat to habitat. Examples include stand-replacement fire, changes in resulting stand composition, and effects on food supply such as production of fungi and seeds.

The southern Puget Trough population has increased since 2007's recovery plan. It is still very limited in size and constrained by the area and fragmentation of its habitat.

Because of the species' small total population size and the isolation of the three populations, continuing threats of wildfires and timber harvest, and a likely decline in habitat of >20 percent in both the North Cascades and Klickitat regions, it is recommended that the western gray squirrel be uplisted to endangered in Washington.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047.

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: None.

Name of Proponent: Washington department of fish and wildlife, 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).

Scope of exemption for rule proposal:

Is fully exempt.

May 2, 2023
 Scott Bird
 Rules Coordinator

AMENDATORY SECTION [(Amending WSR 23-06-035, filed 2/23/23, effective 3/26/23)]

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> |
| Mazama pocket gopher | <i>Thomomys mazama</i> |
| ((American white pelican | <i>Pelecanus erythrorhynchos</i>)) |
| Columbian white-tailed deer | <i>Odocoileus virginianus leucurus</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 |
|-------------------------------|---|
| <u>American white pelican</u> | <u><i>Pelecanus erythrorhynchos</i></u> |
| 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> |
| 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.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

OTS-4562.1

AMENDATORY SECTION (Amending WSR 23-06-035, filed 2/23/23, effective 3/26/23)

WAC 220-610-010 Wildlife classified as endangered species. Endangered species include:

| Common Name | Scientific Name |
|-------------------------------|---|
| Oregon vesper sparrow | <i>Pooecetes gramineus affinis</i> |
| pygmy rabbit | <i>Brachylagus idahoensis</i> |
| fisher | <i>Pekania pennanti</i> |
| gray wolf | <i>Canis lupus</i> |
| grizzly bear | <i>Ursus arctos</i> |
| killer whale | <i>Orcinus orca</i> |
| sei whale | <i>Balaenoptera borealis</i> |
| fin whale | <i>Balaenoptera physalus</i> |
| blue whale | <i>Balaenoptera musculus</i> |
| humpback whale | <i>Megaptera novaeangliae</i> |
| North Pacific right whale | <i>Eubalaena japonica</i> |
| sperm whale | <i>Physeter macrocephalus</i> |
| woodland caribou | <i>Rangifer tarandus caribou</i> |
| Columbian sharp-tailed grouse | <i>Tympanuchus phasianellus columbianus</i> |
| sandhill crane | <i>Grus canadensis</i> |
| snowy plover | <i>Charadrius nivosus</i> |
| upland sandpiper | <i>Bartramia longicauda</i> |
| spotted owl | <i>Strix occidentalis</i> |
| western pond turtle | <i>Clemmys marmorata</i> |
| leatherback sea turtle | <i>Dermochelys coriacea</i> |
| mardon skipper | <i>Polites mardon</i> |
| Oregon silverspot butterfly | <i>Speyeria zerene hippolyta</i> |
| Oregon spotted frog | <i>Rana pretiosa</i> |
| northern leopard frog | <i>Rana pipiens</i> |
| Taylor's checkerspot | <i>Euphydryas editha taylori</i> |
| Streaked horned lark | <i>Eremophila alpestris strigata</i> |
| Tufted puffin | <i>Fratercula cirrhata</i> |
| North American lynx | <i>Lynx canadensis</i> |
| marbled murrelet | <i>Brachyramphus marmoratus</i> |
| Loggerhead sea turtle | <i>Caretta caretta</i> |

| Common Name | Scientific Name |
|------------------------------|------------------------------------|
| Yellow-billed cuckoo | <i>Coccyzus americanus</i> |
| Pinto abalone | <i>Haliotis kamtschatkana</i> |
| Greater sage grouse | <i>Centrocercus urophasianus</i> |
| Ferruginous hawk | <i>Buteo regalis</i> |
| Cascade red fox | <i>Vulpes vulpes cascadenensis</i> |
| <u>western gray squirrel</u> | <u><i>Sciurus griseus</i></u> |

[Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, and 77.08.030. WSR 23-06-035 (Order 22-13), § 220-610-010, filed 2/23/23, effective 3/26/23. 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), § 220-610-010, 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), § 220-610-010, filed 6/10/21, effective 7/11/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.020. WSR 21-07-019 (Order 21-15), § 220-610-010, filed 3/5/21, effective 4/5/21. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047. WSR 19-13-013 (Order 18-120), § 220-610-010, filed 6/7/19, effective 7/8/19; WSR 18-17-153 (Order 18-207), § 220-610-010, 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), § 220-610-010, 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), recodified as § 220-610-010, 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), § 232-12-014, filed 1/4/17, effective 2/4/17; WSR 16-11-023 (Order 16-84), § 232-12-014, filed 5/6/16, effective 6/6/16; WSR 15-10-022 (Order 14-95), § 232-12-014, filed 4/27/15, effective 5/28/15. Statutory Authority: RCW 77.12.047, 77.12.020. WSR 06-04-066 (Order 06-09), § 232-12-014, filed 1/30/06, effective 3/2/06; WSR 04-11-036 (Order 04-98), § 232-12-014, filed 5/12/04, effective 6/12/04. Statutory Authority: RCW 77.12.047, 77.12.655, 77.12.020. WSR 02-11-069 (Order 02-98), § 232-12-014, filed 5/10/02, effective 6/10/02. 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), § 232-12-014, filed 1/24/00, effective 2/24/00. Statutory Authority: RCW 77.12.020. WSR 98-23-013 (Order 98-232), § 232-12-014, filed 11/6/98, effective 12/7/98; WSR 97-18-019 (Order 97-167), § 232-12-014, filed 8/25/97, effective 9/25/97; WSR 93-21-026 (Order 616), § 232-12-014, filed 10/14/93, effective 11/14/93. Statutory Authority: RCW 77.12.020(6). WSR 88-05-032 (Order 305), § 232-12-014, filed 2/12/88. Statutory Authority: RCW 77.12.040. WSR 82-19-026 (Order 192), § 232-12-014, filed 9/9/82; WSR 81-22-002 (Order 174), § 232-12-014, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-014, filed 6/1/81.]

WSR 23-10-083
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed May 2, 2023, 8:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-21-088.

Title of Rule and Other Identifying Information: Proposed amendments to the elevator rules under chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances, excluding the rules with fees.

Hearing Location(s): On June 7, 2023, at 9:00 a.m., virtual and telephonic hearing. Join electronically <https://lni-wa-gov.zoom.us/j/88472027841?pwd=dHV5VDRhTVJVeDNaEZwTGZGcVJYZz09>, Passcode 1Nh+8S+Y; or join by phone (audio only) 1-253-215-8782, Meeting ID 884 7202 7841, Passcode 57042695. The virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received; and on June 13, 2023, at 9:00 a.m., at Department of Labor and Industries (L&I) Tukwila Office, 12806 Gateway Drive South, Tukwila, WA 98168. The in-person hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: August 1, 2023.

Submit Written Comments to: Alicia Curry, L&I, Field Services and Public Safety, P.O. Box 44400, Olympia, WA 98504-4400, email Alicia.Curry@Lni.wa.gov, fax 360-902-6134, by 5 p.m. on June 13, 2023.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-6134, email Alicia.Curry@Lni.wa.gov, by May 24, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to propose amendments to the elevator rules under chapter 296-96 WAC. The elevator program reviewed the existing rules and new safety codes from the 2019 edition of the American Society of Mechanical Engineers (ASME) A17.1/CSA B44 - 2019, Safety Code for Elevators and Escalators, and other related codes. The review process included an opportunity for elevator stakeholders to participate in the review of the existing rules, submit proposals for amendments, and provide recommendations to L&I on proposals. A technical advisory committee (TAC), consisting of multiple industry representatives, and the Elevator Safety Advisory Board (ESAC) reviewed the proposals and provided advice to L&I on adoption of the rules.

This rule making proposes amendments to adopt new safety codes, along with updates, clarification, housekeeping, and other amendments recommended by stakeholders, TAC, ESAC, and L&I to improve public safety.

Proposed rules to this chapter are as follows:

New Sections:

WAC 296-96-00905 Primary point of contact.

- Adds a new section to establish the duties and responsibilities of an elevator primary point of contact for accountability and uniformity with the elevator program's existing practices.

WAC 296-96-02487 State requirements for sprinklers and shunt trips for hydraulic elevators in buildings.

- Adds a new section to clarify that buildings equipped with sprinklers must have them in hydraulic elevator equipment areas for uniformity with the national consensus codes.

WAC 296-96-02610 Private residence platform lifts.

- Adds a new section that allows a cord and plug to be used as an additional disconnecting means for private residence platform lifts and the requirements for implementing this option.

WAC 296-96-02705 Location of speed governor.

- Adds a new section to clarify the existing code requirements for allowing manufacturers to install a governor overspeed in locations where they can be more easily serviced.

WAC 296-96-02710 Residential governor ropes.

- Adds a new section to allow belts and other means to be used for a governor rope under certain conditions to improve public safety.

WAC 296-96-02715 Disconnecting means, hoistwayless elevators.

- Adds a new section that requires hoistwayless elevators to have the same standards as hoistway elevators for an auxiliary disconnect to improve safety. The amendments require an additional location for the disconnecting means to allow for safely disconnecting the power without having to get into the elevator.

WAC 296-96-02720 Two-way communications means.

- Adds a new section to clarify the existing national consensus code requirements for two-way communication means for private residence elevators. Adds new language that phone lines in conveyances must be monitored by a person other than an answering machine or voicemail and connected to either a cellular network, VOIP, or central telephone exchange, and adds requirements to address failure of the communication means.

WAC 296-96-23102 Roof access through horizontal hatch-type covers.

- Adds a new section that requires the replacement of wooden ladders with metal ladders in kind for existing elevators to provide for safer access to roof doors leading to elevator machine rooms.

Amended Sections:**WAC 296-96-00500 Scope, purpose, and authority.**

- Adds a new subsection to clarify that L&I's interpretation of RCW 70.87.200 (1)(b) does not include construction personnel hoists and material hoists covered by ANSI/ASSP A10.4 and A10.5.

WAC 296-96-00600 Application of adopted standards and rules.

- Adds a new subsection to address the need for sprinklers in buildings that have sprinkler systems to clarify the national consensus code requirements. The new language clarifies that when installing an elevator or during construction, sprinklers must be installed per the unabridged edition of NFPA 13 and 72, within ASME A17.1/CSA B44 national standards.
- Amends language for general housekeeping, such as, renumbering of subsections, formatting, adding verbiage for rule clarity, punctuation corrections, and combining language for simplicity, etc.

WAC 296-96-00650 Adopted standards.

- Adds new language to adopt new safety code requirements for conveyances in the state of Washington to improve public safety. This includes:
 - ASME A17.1/CSA B44-2019, Safety Code for Elevators and Escalators;
 - ASME A18.1-2020, Safety Standards for Platform Lifts and Stairway Chair Lifts; and
 - ASME A10.5 ANSI/ASSP A10.5-2020, Safety Requirements for Material Hoists.
- Updates the installation dates in the table of national elevator codes and supplements adopted by L&I to reflect adoption of new safety codes.
- Updates the title of A10.4-2016 as the code authority has relabeled the standard.

WAC 296-96-00675 Amendments to adopted standards.

- Adds new language to clarify the amendments to ASME safety codes.
- Adds new lighting requirements of 200 lx or 19 fc in the machine room and in the truss interior for all conveyance types to improve safety.
- Adds new requirements that allow records for the grain industry to be kept remotely from the building site for uniformity with existing and accepted practices for this industry.
- Adds new requirements for annual cleaning of escalators for uniformity with the national consensus codes.
- Adds a new requirement that a record of the fire alarm initiating device testing must be kept on-site for inspection to improve safety.
- Adds new language to allow exceptions for some minor alterations from full compliance with ASME A17.3 to align with industry standards. A major alteration is defined as an operational controller change and all of the provisions of ASME A17.3 would be effective.
- Adds new language to the firefighter's emergency operation requirements to clarify that deficiencies must be reported to and corrected by elevator personnel for uniformity with the national consensus code.
- Amends existing language to clarify that periodic testing applies to all standards for additional clarification.
- Amends language for general housekeeping, such as relocating existing language throughout the rule, reformatting, reference corrections, replacing the spelling of the number with the numeral for consistency with the national standards, etc.

WAC 296-96-00700 Chapter definitions.

- Adds new definitions to define the "authority having jurisdiction (AHJ)," "conveyance work," "construction personnel hoist (CPH)," "controller," "machine room less (MRL elevator)," "machine room," "material hoist," "vertical reciprocating conveyors (VRC)," and "WAC material lift" for terms used throughout the chapter.
- Amends the existing definition for "replacement" for clarity and uniformity with statute.
- Repeals the definition of "form, fit, and function" and "standard application material lift," as these terms are being removed throughout the chapter.

- Adds subsections to the definitions for formatting and easier referencing.

WAC 296-96-00904 License requirements for elevator contractors.

- Amends language for general housekeeping, such as formatting, correcting code references, and replacing the spelling of the number with the numeral for consistency with the national consensus codes.

WAC 296-96-00910 Elevator mechanic license categories.

- Removes "special purpose elevators" from the list of conveyances that Category 04 elevator mechanic license holders can perform work on, as this licensing category does not cover the education requirements needed for special purpose elevators.
- Adds new language that allows for elevator mechanic licensing endorsements, so elevator mechanics can attain the ability to do other work.

WAC 296-96-01000 Permits for new construction and alterations.

- Amends existing language to remove the term "form, fit, and function" throughout the rules for better uniformity with the national consensus codes.

WAC 296-96-02400 Requests for acceptance inspections.

- Adds new requirements for cancellation of acceptance inspections by contractors and L&I inspectors to clarify expectations.

WAC 296-96-02421 Layout plans.

- Adds language for the additional information that must be submitted to L&I on plan views for new machine room less and hydraulic machine room less equipment for uniformity with the national consensus code.
- Amends subsection numbers and removes wording for formatting.

WAC 296-96-02452 Access to machines, overhead sheaves, shackles, and hitch supports.

- Adds language for clarity to provide detailed instruction on locating a reference point in the hoistway for taking measurements.
- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-02460 Location.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-02465 Machine rooms, control rooms, and control spaces.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-02530 Handrails.

- Removes "with a gripping surface" from the handrail configuration requirements for uniformity with the national consensus code.
- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-02580 Inspection keys.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-02605 Private residence inclined stairway chairlifts.

- Amends the title to clarify that private residence inclined stairway chairlifts apply to both private residential and commercial buildings.
- Amends language to clarify the requirements allowed for battery-operated inclined stairway chairlifts and the way they can be disconnected from power.
- Adds language to clarify the disconnecting means requirements pertaining to residential and commercial stairway chairlifts.
- Amends language to clarify full load safety testing.
- Amends language for reference corrections and to relocate existing language for formatting.

WAC 296-96-02650 Additional required on-site documentation.

- Amends language to reformat the rule so it's easier to understand and use.
- Amends the term "platform lifts" to "platform chair" for proper reference.

WAC 296-96-02700 Machine room requirements.

- Amends the rule title to allow other residential spaces to be used for elevator machinery under this section.
- Amends language to provide owners an additional option to not have to partition or install guards in an area to create a dedicated space for their elevator machinery for uniformity with national consensus codes.
- Amends language to convert measurements for uniformity with national consensus codes.

WAC 296-96-05000 Scope.

- Amends language to replace the term "standard application" material lifts with "WAC" material lifts throughout the chapter, as this equipment is not standard and is constructed to the rules within Part C1.

WAC 296-96-05010 Definition and use.

- Amends language to replace the term "standard application" material lifts with "WAC" material lifts throughout the chapter, as this equipment is not standard and is constructed to the rules within Part C1.
- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-05020 Hoistway enclosure.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-05030 Hoistway gates and doors.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-05070 Car enclosures.

- Amends language to convert measurements for uniformity with the national consensus codes.
- Amends language to replace the term "standard application" material lifts with "WAC" material lifts throughout the chapter, as this equipment is not standard and is constructed to the rules within Part C1.

WAC 296-96-05080 Running clearance.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-05090 Car and counterweight guides.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-05190 Pits.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-05210 Signage.

- Adds language to create new subsections for formatting.
- Amends language to convert measurements for uniformity with the national consensus codes.
- Creates a new subsection to define a "code data plate" and the information needed for WAC material lifts.

WAC 296-96-07150 Guide rails, track supports and fastenings.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-23116 Car numbers.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-23117 Car top guard railings.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-23119 Low overhead signs.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-23122 Machine room and machinery space illumination.

- Adds new language to correctly reference the full ASME national code.

WAC 296-96-23126 Guarding of equipment.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-23130 Pit access.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-23605 Examination of standard application material lifts, special purpose elevators, electric manlifts, and hand-powered manlifts.

- Amends language to replace the term "standard application" material lifts with "WAC" material lifts throughout the rules, as this equipment is not standard and constructed to the rules within Part C1.
- Amends language to reformat the rule so it's easier to understand and use.

WAC 296-96-23606 Installations placed in voluntary red tag status.

- Amends language to remove "voluntary" from "red tag status" throughout the rule to clarify the requirements are to be followed, regardless of either voluntary or red tag status.

WAC 296-96-23701 Maintenance and tests on commercial accessibility lifts.

- Amends language to update the one and five-year inspection test tag requirements for uniformity with national consensus codes.
- Adds new language to clarify that tests, exams, and maintenance must be accessible in the written maintenance program for uniformity with the national consensus codes.

WAC 296-96-24000 Applicable codes and rules.

- Amends language to replace the term "standard application" material lifts with "WAC" material lifts throughout the rules, as this equipment is not standard and constructed to the rules within Part C1.

WAC 296-96-24112 Runway clearances.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24115 Landing enclosures and gates.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24118 Bumpers and buffers.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24127 Maximum rated speed.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24133 Car enclosures.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24136 Car doors and gates.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24139 Capacity and data plates.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24142 Guide rails, track supports and fastenings.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24148 Safeties and governors.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24154 Driving machines and sheaves.

- Adds new language to correctly reference the full ASME national code.

WAC 296-96-24163 Suspension means.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24221 Bumpers and buffers.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24231 Rated speed.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24237 Car enclosures.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24240 Capacity and data plates.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24243 Guide rails, track supports, and fastenings.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24255 Drive machines, sheaves and brakes.

- Adds new language to correctly reference the full ASME national code.

WAC 296-96-24264 Suspension means.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24279 Additional requirements.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24457 Up-limit stop devices.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24500 Scope.

- Adds new language to correctly reference the full ASME national code.

WAC 296-96-24519 Hoistway and landing construction.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24522 Hoistway doors and gates.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24525 Car enclosures and frames.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24528 Car doors and gates.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24531 Counterweight enclosures, counterweight and fastenings.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24534 Guide rails.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24537 Suspension means.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24543 Car safeties.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24553 Drive machines.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24560 Additional applicable requirements.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24620 Landings and entrances.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24635 Guide rails.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24640 Buffers.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24645 Car construction.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24650 Counterweights.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24655 Sheaves and supporting members.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24660 Suspension means.

- Amends language to convert measurements for uniformity with the national consensus codes.
- Amends language to update a subsection reference.

WAC 296-96-24665 Operating ropes.

- Amends language to convert measurements for uniformity with the national consensus codes.

WAC 296-96-24670 Hoistway requirements.

- Amends language to convert measurements for uniformity with the national consensus codes.

Repealed Sections:**WAC 296-96-02640 Inclined commercial stairway chair lifts.**

- Repeals the rules for inclined commercial stairway chairlifts, as these lifts fall under the same category or design as residential inclined chairlifts under ASME A18.1, Section 10.4.

WAC 296-96-18010 Definition, 296-96-18011 Minimum maintenance requirements, 296-96-18020 Car and platform enclosures, 296-96-18030 Electrical wiring requirements, 296-96-18040 Brakes, 296-96-18050 Stop switches and protective devices, 296-96-18060 Reshacking and refastening of hoisting cables, 296-96-18070 Hoistway gates and doors, and 296-96-18080 Hoistway enclosures.

- Repeals the rules pertaining to boat launching elevators, as the elevator program is no longer regulating this type of equipment as no national standard for this equipment exists and there is no longer a need.

WAC 296-96-20010 Minimum maintenance requirements and 296-96-24700 Scope.

- Repeals the rules pertaining to mechanized parking garages. L&I's elevator program is no longer regulating this type of equipment as a national standard for this equipment no longer exists.

WAC 296-96-24703 Minimum maintenance requirements, 296-96-24706 Machine rooms and machinery space, 296-96-24709 Equipment in machine rooms/spaces, 296-96-24712 Electrical wiring, pipes and ducts in hoistways and machine rooms, 296-96-24715 Pits, 296-96-24718 Hoistway door openings, 296-96-24721 Hoistway door installation, 296-96-24724 Hoistway door clearances, 296-96-24727 Hoistway door locking devices, 296-96-24730 Protection of space beneath hoistway, 296-96-24733 Car doors and gates, 296-96-24736 Car enclosure, 296-96-24739 Construction of car frames and platforms, 296-96-24742 Connecting car frames to platforms, 296-96-24745 Capacity, 296-96-24748 Driving machines, 296-96-24751 Material and grooving for sheaves and drums, 296-96-24754 Brakes, 296-96-24757 Terminal stopping devices, 296-96-24760 Suspension means, 296-96-24765 Hydraulic casket lifts, 296-96-24770 Valves,

supply piping and fittings, 296-96-24775 Stopping devices, and 296-96-24780 Operating devices.

- Repeals the rules pertaining to casket lifts. L&I's elevator program is no longer regulating this type of equipment as a national standard, for this equipment no longer exists.

Reasons Supporting Proposal: This rule making proposes amendments based on recommendations from the elevator program, TAC, and ESAC identified during the rule development process. This rule making is needed to update the rules with the latest safety code requirements, so Washington state is consistent with the national consensus codes that govern conveyances. ASME A17.1/B44 CSA is the recognized safety standard for the elevator industry and is adopted throughout North America. The ASME standards address both new and existing elevators, escalators, dumbwaiters, moving walks, material lifts, platform lifts, and stairway chairlifts and provides requirements applying to the design, construction, installation, operation, testing, inspection, maintenance, alteration, and repair of these conveyances. The purpose of the safety codes and standards are to enhance public health and safety. Additionally, other amendments to this chapter are needed to bring the rules up-to-date and to adopt amendments requested by stakeholders.

Statutory Authority for Adoption: RCW 70.87.030.

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, WA, 360-999-0592; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, WA, 360-902-6348.

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 Alicia Curry, L&I, Field Services and Public Safety, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-6134, email Alicia.Curry@Lni.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(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: See explanation in Section 2 below.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

| | Proposed WAC Sections | This proposed rule section is not exempt - Analysis is required | This proposed rule section is exempt. Provide RCW to support this exemption. |
|-----|--|--|---|
| 1. | WAC 296-96-00600 Application of adopted standards and rules. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements. |
| 2. | WAC 296-96-00650 Adopted standards. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus standards. |
| 3. | WAC 296-96-00675 Amendments to adopted standards. | X | This section is partially exempt under RCW 34.05.310 (4)(c), 34.05.310 (4)(d), and 34.05.310 (4)(e) because it adopts national consensus codes that generally establish industry standards, changes that only correct typographical errors or clarify language of a rule without changing the substance or effect of requirements, and content of which is explicitly and specifically dictated by statute. |
| 4. | WAC 296-96-00700 Chapter definitions. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and Washington state statutes and changes that clarify language of a rule without changing the substance or effect of requirements. |
| 5. | WAC 296-96-00904 License requirements for elevator contractors. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that only correct typographical errors or clarify language of a rule without changing the substance or effect of requirements. |
| 6. | WAC 296-96-01000 Permits for new construction and alterations. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 7. | WAC 296-96-02421 Layout plans. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements. |
| 8. | WAC 296-96-02452 Access to machines, overhead sheaves, shackles, and hitch supports. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |
| 9. | WAC 296-96-02460 Location. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that only clarify language of a rule without changing the substance or effect of requirements. |
| 10. | WAC 296-96-02465 Machine rooms, control rooms, and control spaces. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that only clarify language of a rule without changing the substance or effect of requirements. |
| 11. | WAC 296-96-02487 State requirements for sprinklers and shunt trips for hydraulic elevators in buildings. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |

| | Proposed WAC Sections | This proposed rule section is not exempt - Analysis is required | This proposed rule section is exempt. Provide RCW to support this exemption. |
|-----|--|--|---|
| 12. | WAC 296-96-02530 Handrails. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that clarify language of a rule without changing the substance or effect of requirements. |
| 13. | WAC 296-96-02580 Inspection keys. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that only clarify language of a rule without changing the substance or effect of requirements. |
| 14. | WAC 296-96-02605 Private residence inclined stairway chairlifts. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that clarify language of a rule without changing the substance or effect of requirements. |
| 15. | WAC 296-96-02610 Private residence platform lifts. | X | This section is partially exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |
| 16. | WAC 296-96-02650 Additional required on-site documentation. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that only clarify language of a rule without changing the substance or effect of requirements. |
| 17. | WAC 296-96-02700 Machine room requirements. | X | This section is partially exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that clarify language of a rule without changing the substance or effect of requirements. |
| 18. | WAC 296-96-02705 Location of speed governor. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |
| 19. | WAC 296-96-02720 Two-way communications means. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |
| 20. | WAC 296-96-05000 Scope. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 21. | WAC 296-96-05010 Definition and use. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 22. | WAC 296-96-05020 Hoistway enclosure. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 23. | WAC 296-96-05030 Hoistway gates and doors. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 24. | WAC 296-96-05070 Car enclosures. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |

| | Proposed WAC Sections | This proposed rule section is not exempt - Analysis is required | This proposed rule section is exempt. Provide RCW to support this exemption. |
|-----|---|--|---|
| 25. | WAC 296-96-05080 Running clearance. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 26. | WAC 296-96-05090 Car and counterweight guides. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 27. | WAC 296-96-05190 Pits. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 28. | WAC 296-96-05210 Signage. | X | This section is partially exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 29. | WAC 296-96-07150 Guide rails, track supports and fastenings. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 30. | WAC 296-96-23116 Car numbers. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 31. | WAC 296-96-23117 Car top guard railings. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 32. | WAC 296-96-23119 Low overhead signs. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 33. | WAC 296-96-23122 Machine room and machinery space illumination. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 34. | WAC 296-96-23126 Guarding of equipment. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 35. | WAC 296-96-23130 Pit access. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 36. | WAC 296-96-23605 Examination of standard application material lifts, special purpose elevators, electric manlifts, and hand-powered manlifts. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 37. | WAC 296-96-23701 Maintenance and tests on commercial accessibility lifts. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |
| 38. | WAC 296-96-24000 Applicable codes and rules. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |

| | Proposed WAC Sections | This proposed rule section is not exempt - Analysis is required | This proposed rule section is exempt. Provide RCW to support this exemption. |
|-----|--|--|---|
| 39. | WAC 296-96-24112 Runway clearances. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 40. | WAC 296-96-24115 Landing enclosures and gates. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 41. | WAC 296-96-24118 Bumpers and buffers. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 42. | WAC 296-96-24127 Maximum rated speed. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 43. | WAC 296-96-24133 Car enclosures. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 44. | WAC 296-96-24136 Car doors and gates. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 45. | WAC 296-96-24139 Capacity and data plates. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 46. | WAC 296-96-24142 Guide rails, track supports and fastenings. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 47. | WAC 296-96-24148 Safeties and governors. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 48. | WAC 296-96-24154 Driving machines and sheaves. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 49. | WAC 296-96-24163 Suspension means. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 50. | WAC 296-96-24221 Bumpers and buffers. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 51. | WAC 296-96-24231 Rated speed. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 52. | WAC 296-96-24237 Car enclosures. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |

| | Proposed WAC Sections | This proposed rule section is not exempt - Analysis is required | This proposed rule section is exempt. Provide RCW to support this exemption. |
|-----|--|--|---|
| | WAC 296-96-24240 Capacity and data plates. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 53. | WAC 296-96-24243 Guide rails, track supports, and fastenings. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 54. | WAC 296-96-24255 Drive machines, sheaves and brakes. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 55. | WAC 296-96-24264 Suspension means. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 56. | WAC 296-96-24279 Additional requirements. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 57. | WAC 296-96-24457 Up-limit stop devices. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 58. | WAC 296-96-24500 Scope. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 59. | WAC 296-96-24519 Hoistway and landing construction. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 60. | WAC 296-96-24522 Hoistway doors and gates. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 61. | WAC 296-96-24525 Car enclosures and frames. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 62. | WAC 296-96-24528 Car doors and gates. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 63. | WAC 296-96-24531 Counterweight enclosures, counterweight and fastenings. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 64. | WAC 296-96-24534 Guide rails. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 65. | WAC 296-96-24537 Suspension means. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |

| | Proposed WAC Sections | This proposed rule section is not exempt - Analysis is required | This proposed rule section is exempt. Provide RCW to support this exemption. |
|-----|--|--|---|
| 66. | WAC 296-96-24543 Car safeties. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 67. | WAC 296-96-24553 Drive machines. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 68. | WAC 296-96-24560 Additional applicable requirements. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 69. | WAC 296-96-24620 Landings and entrances. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 70. | WAC 296-96-24635 Guide rails. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 71. | WAC 296-96-24640 Buffers. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 72. | WAC 296-96-24645 Car construction. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 73. | WAC 296-96-24650 Counterweights. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 74. | WAC 296-96-24655 Sheaves and supporting members. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 75. | WAC 296-96-24660 Suspension means. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 76. | WAC 296-96-24665 Operating ropes. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 77. | WAC 296-96-24670 Hoistway requirements. | <input type="checkbox"/> | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |

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. L&I identified the following amendments that would impose new or additional costs on affected businesses.

WAC 296-96-00500 Scope, purpose, and authority.

Rule overview: This change clarifies that L&I's interpretation of RCW 70.87.200 (1) (b) does not include construction personnel hoists

and material hoists covered by ANSI/ASSP A10.4 and A10.5 and is an interpretive rule under RCW 34.05.328 (5)(c)(ii) which does not subject anyone to a penalty or cost.

WAC 296-96-00700 Chapter definitions.

Rule overview: This change establishes the definition of "Machine room less (MRL elevator)" and is an interpretive rule under RCW 34.05.328 (5)(c)(ii) which does not subject anyone to a penalty or cost.

WAC 296-96-02715 Disconnecting means, hoistwayless elevators.

Rule Overview: This change deviates from the national code under ASME A17.1 by requiring hoistwayless elevators to have the same standards as hoistway elevators for an auxiliary disconnect. The change now requires an additional location for the disconnecting means to allow for safely disconnecting the power without having to get into the elevator.

WAC 296-96-05210 Signage, subsections (2) and (2)(a) through (c).

Rule Overview: Creates a definition of "code data plate" and adds this to the signage requirement for WAC material lifts.

WAC 296-96-23102 Roof access through horizontal hatch-type covers.

Rule Overview: This change adds new requirements to provide for safer access to roof doors leading to elevator machine rooms. Some access to roof areas are currently provided with wooden ladders, which do not comply with ANSI A14.3. The proposed language makes allowances where a stair or collapsible stair is not feasible.

The industries listed in the table below are the ones most likely to be affected by the proposed rule amendments. Businesses in the 238291 and 238292 NAICS categories will be required to install a second disconnect switch when installing hoistwayless elevators, but the added cost will be passed on to the elevator owner. Businesses in the 454110 and 455211 NAICS categories will absorb the cost of the new data plates required on WAC material lifts.

Industries Affected by the Proposed Rule:

| 6-Digit NAICS | Industry Group |
|---------------|---|
| 238291 | Other Residential Equipment Contractors |
| 238292 | Other Nonresidential Equipment Contractors |
| 454110 | Electronic Shopping and Mail-Order Houses |
| 455211 | Warehouse Clubs and Supercenters |
| 531110 | Lessors of Residential Buildings and Dwellings |
| 531120 | Lessors of Nonresidential Buildings (except Miniwarehouses) |
| 531190 | Lessors of Other Real Estate Property |

WAC 296-96-02715 Disconnecting means, hoistwayless elevators.

Costs: The new language creates a cost for installing an additional disconnect switch. The estimated average cost for this installation is \$25 per unit and less than one hour of labor at \$75 per hour. Less than 20 hoistwayless elevators are installed each year. Therefore, the total cost of this requirement to the industry is estimated to be \$2,000 or less per year. Hoistwayless elevators are exclusively used in residential homes. Therefore, this cost becomes a consumer expenditure and none of the cost remains with the industry.

WAC 296-96-05210 Signage, subsections (2) and (2)(a) through (c).

Costs: This is a new requirement that applies to new WAC material lifts only, and there will be a cost for procurement of the data plates for these conveyances. It is estimated that on average, less

than 20 such lifts would be installed each year in the state and the data plates are estimated to cost \$10 each. Since no attachment method is specified, the labor cost for installation will be minimal. Therefore, the total cost of this requirement to the industry is estimated to be \$200 or less per year.

WAC 296-96-23102 Roof access through horizontal hatch-type covers.

Costs: This new language creates a cost for the replacement of fixed wooden ladders. The minimum requirement is that the wooden ladder be replaced with a noncombustible ladder. The estimated cost for replacement of the wooden ladders is \$300 to \$500 each.

As analyzed above, the cost of additional disconnect switches would ultimately be passed on to the owners of residential elevators. Therefore, the changes in WAC 296-96-02715 present no cost to any businesses. WAC material lifts are installed in large warehouse facilities. It is reasonable to assume that, on average, any one business would install one such lift per year. Given the cost of \$10 for each data plate required with such a lift under WAC 296-96-05210(2), the annual per-business cost is \$10. In addition, WAC 296-96-23102 creates a cost for the purchase of noncombustible ladders. The cost of these ladders is \$300 to \$500 each. The replacement will be required as current ladders become unfit. Therefore, it is reasonable to assume that building owners will, on average, replace one per year at a cost of \$500 or less.

Per-business Cost vs. Minor Cost Threshold:

| Affected Industries | Per-business annual average cost | Minor cost threshold (1% of annual payroll) |
|--|----------------------------------|---|
| 454110 - Electronic Shopping and Mail-Order Houses | \$10 | \$21,220 |
| 455211 - Warehouse Clubs and Supercenters | \$10 | \$3,206,263 |
| 531110 - Lessors of Residential Buildings and Dwellings | \$500 | \$3,680 |
| 531120 - Lessors of Nonresidential Buildings (except Miniwarehouses) | \$500 | \$4,672 |
| 531190 - Lessors of Other Real Estate Property | \$500 | \$1,506 |

When compared to the minor-cost threshold (one percent of annual payroll), the average per-business cost of these proposed rule amendments is far below the threshold for affected businesses discussed above. Therefore, a small business economic impact statement is not required for this rule making pursuant to RCW 19.85.030(1), and the information provided above is sufficient to fulfill the requirements in the Regulatory Fairness Act (chapter 19.85 RCW).

May 2, 2023
 Joel Sacks
 Director

OTS-3924.8

AMENDATORY SECTION (Amending WSR 13-24-066, filed 11/27/13, effective 1/1/14)

WAC 296-96-00500 Scope, purpose, and authority. This chapter is authorized by chapter 70.87 RCW covering elevators, lifting devices, moving walks, and other conveyances. The purpose of this chapter is to:

- (1) Provide for the safe design, installation, mechanical and electrical operation, maintenance, examinations, safety tests and inspection of conveyances, and the performance of conveyance work.
- (2) Ensure that all such operation, design inspection, and conveyance work subject to the provisions of this chapter will be reasonably safe to persons and property and in conformity with the provisions of this chapter and the applicable statutes of the state of Washington.
- (3) Establish and ensure compliance with the minimum standards for becoming a licensed elevator contractor and/or licensed elevator mechanic performing work on elevators or other conveyances covered by chapter 70.87 RCW and this chapter.
- (4) In any case where the national standards codes adopted by reference in chapter 296-96 WAC conflict with the requirements of national standards adopted, this chapter supersedes.
- (5) When no applicable standard exists to address subsections (1), (2), and (3) of this section the department will issue a ruling or interpretation that outlines the intent of this chapter.
- (6) The exemption for lifts, hoists for persons, or material hoists under RCW 70.87.200 (1)(b) does not apply to construction personnel hoists covered under ANSI/ASSP A10.4 or material hoists covered under ANSI/ASSP A10.5.

[Statutory Authority: Chapter 70.87 RCW. WSR 13-24-066, § 296-96-00500, filed 11/27/13, effective 1/1/14. 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, § 296-96-00500, filed 5/28/04, effective 6/30/04. 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, § 296-96-00500, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-00600 Application of adopted standards and rules.

Conveyances are required to comply with rules and standards that:

- (1) Were in effect at the time of the original installation(~~(†)~~) or
~~((2) Were in effect))~~ at the time of any alteration;
~~((3))~~ (2) Apply to new and existing elevators (see ASME A17.1/CSA B44 1.1.3); ~~((and~~
~~(4))~~ (3) Apply to ASME A17.3, Safety Code for Existing Elevators and Escalators and chapter 296-96 WAC, Part D; and
(4) Apply to buildings equipped with sprinklers. See WAC 296-96-02487 under Part C, Section 7. NFPA 13 and NFPA 72 are applicable as referenced by ASME A17.1/CSA B44 and comply with safe design and installation of conveyance work as outlined in WAC 296-96-00500 and RCW 70.87.020.

Copies of previous rules adopted by the department are available upon request.

If the department determines that a conveyance was installed or altered without a permit and inspection, the installation or alteration will be required to comply with the applicable rules and standards adopted by the department at the time the noncompliant installation or alteration was identified.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-00600, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-00600, filed 11/27/13, effective 1/1/14. 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, § 296-96-00600, filed 5/28/04, effective 6/30/04. 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, § 296-96-00600, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-00650 Adopted standards.

| ELEVATOR CODES AND SUPPLEMENTS ADOPTED | | | | |
|--|--|-----------------------|------------|---|
| TYPE OF CONVEYANCE | CODE AND SUPPLEMENTS | DATE INSTALLED | | COMMENTS |
| | | FROM | TO | |
| Elevators, Dumbwaiters, Escalators | American Standard Safety Code (ASA) A17.1, 1960 | 11/1/1963 | 12/29/1967 | Adopted Standard |
| NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED | | | | |
| TYPE OF CONVEYANCE | CODE AND SUPPLEMENTS | DATE INSTALLED | | COMMENTS |
| | | FROM | TO | |
| Moving Walks | American Standard Safety Code (ASA) A17.1.13, 1962 | 11/1/1963 | 12/29/1967 | Adopted Standard |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | U.S.A. Standards USAS A17.1-1965 Supplements A17.1a-1967 A17.1b-1968 A17.1c-1969 | 12/30/1967 | 2/24/1972 | Adopted Standard USAS 1965 includes revision and consolidation of A17.1-1960, A17.1a-1963, & A17.1.13-1962. Adopted code and supplements, excluding Appendix E & ANSI A17.1-1970. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | American National Standards Institute A17.1-1971 | 2/25/1972 | 6/30/1982 | Adopted Standard as amended and revised through 1971. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1-1971; A17.1a-1972 | 2/25/1972 | 6/30/1982 | Adopted Supplement |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1-1981 | 7/1/1982 | 1/9/1986 | Adopted Standard |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1a-1982 | 3/1/1984 | 1/9/1986 | Adopted Supplement |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1b-1983 | 12/1/1984 | 1/9/1986 | Adopted Supplement, except portable escalators covered by Part VIII A17.1b-1983. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1-1984 | 1/10/1986 | 12/31/1988 | Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1a-1985 | 1/10/1986 | 12/31/1988 | Adopted Supplement |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1b-1985 A17.1c-1986 A17.1d-1986 A17.1e-1987 | 12/6/1987 | 12/31/1988 | Adopted Supplement |

| NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED | | | | |
|--|--|----------------|-----------------------------------|---|
| TYPE OF CONVEYANCE | CODE AND SUPPLEMENTS | DATE INSTALLED | | COMMENTS |
| | | FROM | TO | |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ANSI A17.1-1987 | 1/1/1989 | 12/31/1992 | Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ASME A17.1-1990 | 1/1/1993 | 2/28/1995 | Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ASME A17.1-1993 | 3/1/1995 | 6/30/1998 | Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ASME A17.1-1996 | 6/30/1998 | 6/30/2004 | Adopted Standard Except Part V, Section 513. |
| Elevators, Dumbwaiters, Escalators, and Moving Walks | ASME A17.1-2000 A17.1a-2002 A17.1b-2003 | 7/1/2004 | 1/1/2008 | Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1. |
| Safety Standards for Platform Lifts and Stairway Chairlifts | ASME A18.1-1999 A18.1a-2001 A18.1b-2001 | 7/1/2004 | 1/1/2008 | Adopted Standards and Addenda. |
| Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose | ASME A17.1-2004 A17.1a-2005 | 1/1/2008 | 1/1/2014 | Adopted Standards and Addenda Except Rules 2.4.7.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, QEI-1 inspector. |
| Safety Code for Platform Lifts and Stairway Chairlifts | ASME A18.1-2005 | 1/1/2008 | 9/30/2018 | |
| Safety Code for Belt Manlifts | ASME A90.1-2003 | 1/1/2008 | 9/30/2018 | |
| Safety Code for Personnel Hoists, Retroactive | ANSI A10.4-2004 | 1/1/2008 | 9/30/2018 | |
| Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose | ASME A17.1-2010 | 1/1/2014 | 9/30/2018 | |
| Standard for Elevator Suspension, Compensation, and Governor Systems | ASME A17.6-2010 | 1/1/2014 | Current | |
| Safety Code for Platform Lifts and Stairway Chairlifts | ASME A18.1-2011 | 1/1/2014 | 9/30/2018 | |
| Safety Code for Belt Manlifts | ASME A90.1-2009 | 1/1/2014 | 9/30/2018 | |
| Safety Code for Personnel Hoists | ANSI A10.4-2007 | 1/1/2014 | 9/30/2018 | |
| Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, and Special Purpose | ASME A17.1-2016/CSA B44-16 | 10/1/2018 | (Current) 8/31/2023 | |
| Guide for Inspection of Elevators, Escalators, and Moving Walks | ASME A17.2-2017 | 10/1/2018 | Current | |
| Safety Code for Existing Elevators and Escalators | ASME A17.3-2015 | 10/1/2018 | Current | |
| Safety Standards for Platform Lifts and Stairway Chair Lifts | ASME A18.1-2017 | 10/1/2018 | (Current) 8/31/2023 | |
| Safety Code for Belt Manlifts | ASME A90.1-2015 | 10/1/2018 | Current | |
| Safety (Code) Requirements for Personnel Hoists and Employee Elevators on Construction and Demolition Sites | (ASSE/ANSI) ANSI/ASSP A10.4-2016 | 10/1/2018 | Current | |
| Safety Code for Material Hoists | ASSE/ANSI A10.5-2013 | 10/1/2018 | (Current) 8/31/2023 | |
| Safety Code for Elevators and Escalators | ASME A17.1-2019/CSA B44-19 | 9/1/2023 | Current | |
| Safety Standards for Platform Lifts and Stairway Chair Lifts | ASME A18.1-2020 | 9/1/2023 | Current | |
| Safety Requirements for Material Hoists | ANSI/ASSP A10.5-2020 | 9/1/2023 | Current | |

Note: Copies of codes and supplements can be obtained from the following: The American Society of Mechanical Engineers (ASME), Order Department 150 Clove Road, 6th Floor, Little Falls, New Jersey 07424-2138 or by visiting www.asme.org. The American Society of Safety Engineers (ASSE) 1800 East Oakton Street, Des Plaines, IL 60018-2187 or by visiting www.asse.org.

Comments: Codes adopted by this chapter will be identified with the applicable ASME/ANSI code reference number contained within the rules or as excluded or amended in WAC 296-96-00675.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-00650, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-00650, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-00650, filed 11/27/13, effective 1/1/14; WSR 08-23-085, § 296-96-00650, filed 11/18/08, effective 12/19/08; WSR 07-24-041, § 296-96-00650, filed 11/30/07, effective 1/1/08. 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, § 296-96-00650, filed 5/28/04, effective 6/30/04. 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, § 296-96-00650, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-00675 Amendments to adopted standards. The department amends the following adopted standards:

(1) (~~Exclude all references to QEI certification in ASME A17.1/CSA B44, ASME A18.1, and ANSI/ASSE A10.4 from code adoption.~~

~~(2))~~ ASME A17.1/CSA B44, all amendments to this standard are as follows:

(a) Section 1.2 Purpose and Exceptions amended as follows: The purpose of this code is to provide for the safety of life and limb, and to promote the public welfare. Compliance with these rules shall be achieved by:

~~((a))~~ (i) Conformance with the requirements in ASME A17.1/CSA B44 as amended by this chapter; or

~~((b))~~ (ii) Conformance with a combination of requirements in ASME A17.1/CSA B44, this chapter, and ASME A17.7/CSA B44.7 with the following ASME A17.7/CSA B44.7 inclusions:

~~((i))~~ (A) All system or component certifications performed by an Accredited Elevator/Escalator Certification Organization (AECO) under ASME A17.7/CSA B44.7 shall be approved by the department before any such system or component is allowed to be permitted or installed in the state of Washington.

~~((ii))~~ (B) The applicant shall provide the certificate of certification for the device or system evaluated by an AECO.

~~((iii))~~ (C) The department has the final authority regarding acceptance of any item in ASME A17.7/CSA B44.7. The department may remove approval if a design has changed or unforeseen or undisclosed information is obtained.

~~((iv))~~ (D) The department will post the specific ASME A17.7/CSA B44.7 AECO certificate including exceptions agreed upon. At that time the certificate and exceptions become part of the adopted rule in the state of Washington and not subject to a variance process. The installer shall include the certificate and exceptions and all required information on each conveyance installed utilizing the ASME A17.7/CSA B44.7 method in the Maintenance Control Program documentation.

~~((v))~~ (E) The department may charge an additional fee for each item in review based upon the variance fee table.

~~((e))~~ (iii) Additions or modifications to adopted standards and/or this chapter shall require approval from the department.

~~((3) ASME A17.1/CSA B44,))~~ (b) Section 5.8, Marine Elevators. This section only applies to elevators installed on board a marine vessel flying the Washington state flag and under ~~((one hundred))~~ 100 gross metric tons.

~~((4) ASME A17.1/CSA B44,))~~ (c) Section 5.11, Wind Turbine Elevator is not adopted.

~~((5))~~ (d) Section 6.1 as follows:

(i) 6.1.7.1.1 Remote Machine Room. Permanent electric lighting and at least one duplex receptacle rated at not less than 15 A, 120 V shall be provided in every remote machine room.

The illumination shall be not less than 200 lx (19 fc) at the floor level. The lighting control switch shall be located within easy reach of the access to such rooms and located so that it can be operated without passing over or reaching over any part of the machinery.

(ii) 6.1.7.1.2 Truss Interior. A duplex receptacle rated at not less than 15 A, 120 V and accessibly located shall be provided under the access plates (see ASME A17.1 CSA/B44 6.1.7.3) at the top and bottom landings and in any machine areas located in the incline.

The illumination shall be not less than 200 lx (19 fc) at the floor level. The light and lighting control switch shall be provided under the access plates (see ASME A17.1 CSA/B44 6.1.7.3) at the top and bottom landings and in any machine areas located in the incline. The lighting control switch shall be located within easy reach of the access to such spaces and so located that it can be operated without passing over or reaching over any part of the machinery.

(e) Section 8.6 as follows: 8.6.1.4.1(b). The department does not adopt verbiage stating "records may be kept remotely from the site." This is for all conveyance types.

With the exception of those conveyances used in the "grain" industry whose conveyances do not have a secure place to house these records, the records shall be made available at the time of annual inspection.

(f) Periodic tests and inspections. Pursuant to requirements ASME A17.1/CSA B44, 8.6.1.7 and 8.11.1.3, the department adopts ASME A17.1/CSA B44, Appendix N for the frequency of periodic tests. Pursuant to RCW 70.87.120 (2) (a) periodic inspections shall be performed annually.

~~((6) ASME A17.1/CSA B44 requirement 8.11.1.1.2 is not adopted. The department shall be permitted to witness periodic tests when the department deems necessary.~~

~~(7) ASME A17.1-2016/CSA B44-16,))~~ (g) Escalator cleaning shall be performed at least once annually. It can be performed concurrently with the required Cat I testing. (ASME A17.1, 8.6.8.13 Cleaning).

(h) Section 8.6 is adopted with the following amendments:

(i) 8.6.4.19.6: At least once each year, the fire alarm initiating devices associated with elevator recall and shunt trip initiating devices shall be tested to ensure they are still properly interfaced with the elevator control. Deficiencies shall be corrected. A record of findings shall be available to elevator personnel and the authority having jurisdiction. This test applies to electric and hydraulic elevators.

(ii) 8.6.1.4.1(c): Provide a record of findings for fire alarm initiating device testing as required by (1)(h)(i) of this subsection.

(iii) 8.6.11.1 Firefighters' Emergency Operation is amended as follows: All elevators provided with firefighters' emergency operation shall be subjected quarterly, by authorized personnel, to Phase I recall by use of the keyed switch, and a minimum of one-floor operation on Phase II. Deficiencies shall be reported to and corrected by a licensed elevator mechanic. A record of findings shall be available to elevator personnel and the authority having jurisdiction.

~~((8) Append ASME A17.1-2016/CSA B44-16, 8.6.4.19.6 as follows: At least once each year, the fire alarm initiating devices associated with elevator recall and shunt trip initiating devices shall be tested to ensure they are still properly interfaced with the elevator control.~~

~~This test applies to electric and hydraulic elevators.~~

~~(9)) (iv) The department will not allow the 8.6.11.10 "Category 5 Tests Without Load Via Alternative Test Methodologies" portion of ASME A17.1 to be followed in Washington. Standard testing as outlined in ASME A17.1 shall be followed.~~

(i) Section 8.7 is amended as follows: 8.7.1.1 Applicability of Alteration Requirements.

When any alteration is performed, regardless of any other requirements of Section 8.7, the installation as a minimum shall conform to the following applicable code requirements:

(i) The code at the time of installation;

(ii) The code requirements for the alteration at the time of any alteration; and

(iii) ASME A17.3 if adopted by the authority having jurisdiction for major alterations only. Major alterations are considered to be controller replacements.

(2) ASME A17.3 all amendments to this standard are as follows: ASME A17.3 ((requirement)), 3.10.3 is modified as follows: Where the car top stop switch located in the inspection control station is not accessible from the landing, a separate car top stop switch shall be provided as required by ASME A17.1/CSA B44, 2.26.1.4.2(a).

~~((10) The department will not allow the 8.6.11.10 "Category 5 Tests Without Load Via Alternative Test Methodologies" portion of ASME A17.1 to be followed in Washington. Standard testing as outlined in ASME A17.1 shall be followed.)~~

(3) Exclude all references to OEI certification in ASME A17.1/CSA B44, ASME A18.1, and ANSI/ASSP A10.4 from code adoption.

(4) All references pertaining to periodic tests, in all adopted standards, the department shall be permitted to witness periodic tests when the department deems necessary.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-00675, filed 8/31/21, effective 10/1/21; WSR 19-15-118, § 296-96-00675, filed 7/23/19, effective 9/1/19; WSR 18-18-070, § 296-96-00675, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-00700 Chapter definitions. The following definitions apply to this chapter (see RCW 70.87.010 and ASME A17.1/CSA B44 for additional definitions necessary for use with this chapter):

(1) "ANSI" means the American National Standard Institute.

(2) **"ASA"** means the American Safety Association.

(3) **"ASME"** means the American Society of Mechanical Engineers.

(4) **"Acceptable proof"** refers to the documentation that is required to be provided to the department during the elevator contractor and mechanic license application and renewal process.

(5) **"Alteration"** means an intended change to the original design of elevator equipment.

(6) **"Authority having jurisdiction (AHJ)"** means the organization, office, or individual responsible for enforcement of this code. Where compliance with this code has been mandated by legislation or regulation, the "authority having jurisdiction" is the regulatory authority.

(7) **"Code"** refers to nationally recognized codes (i.e., ASME, ANSI, ICC, and NFPA) and the Washington Administrative Code.

(8) **"Conveyance work"** means the alteration, construction, dismantling, erection, installation, maintenance, relocation, and wiring of a conveyance.

(9) **"Construction personnel hoist (CPH)"** refers to equipment installed inside or outside buildings or structures during construction, alteration, demolition or operations and are used to raise and lower workers and other personnel connected with or related to the structure. The hoist may also be used for transportation of materials. These personnel hoists are exclusively covered in ANSI/ASSP A10.4.

(10) **"Controller"** shall include, but not be limited to:

(a) A device or group of devices that serves to control in a predetermined manner the apparatus to which it is connected.

(b) Controller, motion: An operative unit comprising a device or group of devices for actuating the moving member.

(c) Controller, motor: The operative units of a motion control system comprising the starter devices and/or power conversion equipment required to drive an electric motor.

(d) Controller, operation: An operative unit comprising a device or group of devices for actuating the motion control.

(11) **"Decommissioning conveyance"** means a group of tasks that are to be accomplished in order to place the conveyance in a long-term out-of-service status.

(12) **"Examination"** means a routine process or procedural task(s) or test(s) that ensures a conveyance and its systems and subsystems remain properly maintained and safe to operate.

(13) **"Final judgment"** means any money that is owed the department as the result of an individual's or firm's unsuccessful appeal or failure to appeal a civil penalty.

(~~"Form, fit, and function" means specific characteristics of a device (such as a component or assembly) that enable direct substitution of the device for a similar device without adversely affecting the operation or safety of the overall equipment. Factors to be considered with respect to form, fit, and function include, but are not always limited to: The ability of the device to be connected in place of the original; having similar size, shape and appearance; ability to perform the same function as the original device; and having ratings equal to or greater than the original device.~~)

(14) **"General direction - Installation and alteration work"** means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate license category) who is on the same job site as the helper/apprentice.

(15) **"General direction - Maintenance work"** means the necessary education, assistance, and supervision provided by a licensed elevator

mechanic (in the appropriate license category) to ensure that the maintenance work is performed safely and to code.

(16) "**Layout drawings**" or "**plans**" or "**shop drawings**" means elevation and plan view drawings that show required clearances and dimensions of elevator equipment in relation to building structure and other elevator equipment.

(17) "**Layout drawings, engineering**" means structural drawings verified and stamped by a professional engineer registered in the state of Washington.

(18) "**Lockout/tagout**" means the placement of a lockout device on an energy isolating device.

(19) "**Machine room less (MRL elevator)**" means there is not a machine room that contains the actual controls and lifting machine for electric traction elevators, or the actual controls and pumping machine/tank for hydraulic elevators. These are located inside the hoistway or pit.

(20) "**Machine room**" means machine room and control room, remote, elevator, dumbwaiter, material lift: A machine room or control room that is not attached to the outside perimeter or surface of the walls, ceiling, or floor of the hoistway.

(21) "**Material hoist**" means a hoist that is not a part of a permanent structure used to raise or lower materials during construction, alteration, or demolition. It is not applicable to the temporary use of permanently installed personnel elevators as material hoists.

(22) "**Primary point of contact**" is the designated individual employed by a licensed elevator contractor.

(23) "**Private residence elevator**" means a power passenger elevator which is installed in a private residence or multiple dwelling as a means of access to a single private residence.

(24) "**Red tag**" or "**red tag status**" means an elevator or other conveyance that has been removed from service and operation because of noncompliance with chapter 70.87 RCW and this chapter or at the request of the owner.

(25) "**Repair**" means a procedure used to restore a device or system to its original design parameters without supplying a complete new component or device.

(26) "**Replacement**" means ~~the ((complete replacement of a device or component that has the same "form, fit, and function" as the original but is not intended as a change in design))~~ substitution of a device, component, and/or subsystem in its entirety with a unit that is basically the same as the original for the purpose of ensuring performance in accordance with chapter 70.87 RCW.

(27) "**RCW**" means the Revised Code of Washington.

~~(("**Standard application material lift**" means a lift used strictly for freight transport and is in compliance with this chapter, Part C1. (Note: These are not to be confused with Type A and Type B material lifts covered in ASME A17.1/CSA B44, Part 7).))~~

(28) "**Traction elevator**" means an elevator in which the friction between the hoist ropes and the drive machine sheave is used to move the elevator car.

(29) "**USAS**" means the U.S.A. Standards.

(30) "**Vertical reciprocating conveyors (VRC)**" means B20.1 lifts which are designed by way of reciprocating power or gravity actuated unit (not designed to carry passengers or an operator) to raise and lower objects on a carrier and transmits them between two or more levels. VRC's are mounted in a stationary position. The equipment may perform a stand-alone function. These conveyances that are manufac-

tured to ASME/ANSI B20.1 standard are not permitted in the state of Washington.

(31) **"WAC"** means the Washington Administrative Code.

(32) **"WAC material lift"** means a lift used strictly for freight transport and is in compliance with this chapter, Part C1. (Note: These are not to be confused with Type A and Type B material lifts covered in ASME A17.1/CSA B44, Part 7).

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-00700, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-00700, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-00700, filed 11/30/07, effective 1/1/08. 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, § 296-96-00700, filed 5/28/04, effective 6/30/04. 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, § 296-96-00700, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-00904 License requirements for elevator contractors.

(1) Any sole proprietor, firm or corporation wishing to engage in the business of installation, alteration, service, replacement of maintenance of equipment covered by this chapter within the state of Washington shall apply for a license with the department of labor and industries.

The entities above shall obtain and maintain a valid specialty or general contractor registration under chapter 18.27 RCW to engage in the business of conveyance work.

(2) The potential licensee shall complete and submit a department-approved application. As part of the application the following shall be provided:

(a) The employee who is the licensed elevator contractor's primary point of contact.

(b) The number of years the applicant has been engaged in the business of installing, constructing, altering, replacing, maintaining, removing, dismantling and/or servicing conveyances.

(c) Documentation that at least one licensed elevator mechanic is employed by the applicant.

(3) The person representing the company, firm or corporation who is applying for the elevator contractor's license shall be considered the company's primary point of contact and shall:

(a) Provide acceptable proof to the department that shows that the person representing the company, firm, or corporation has five years of work experience in performing conveyance work as verified by current and previous state of Washington elevator licenses; or

(b) Pass a written examination administered by the department on chapter 70.87 RCW and this chapter with a minimum score of ((seventy)) 70 percent.

(c) Failure to pass the examination will require the submittal of a new application.

(4) Pay the fees specified in WAC 296-96-00922.

(5) The department may deny application or renewal of a license under this section if the applicant owes outstanding final judgments to the department.

(6) If the primary point of contact identified in subsection (2)(a) of this section separates employment, his/her relationship or designation is terminated, or death of the designated individual occurs, the elevator contractor shall, within (~~ninety~~) 90 days, designate a new individual who has met the requirement noted above to serve as the elevator contractor's primary point of contact. The elevator contractor shall inform the department of the change in writing or the contractor's license will be automatically suspended.

(7) Where unique or product-specific procedures or methods are required to inspect or test equipment, such procedures, or methods shall be:

(a) Provided in the maintenance control program.

(b) Provided by the manufacturer or installer or their license may be suspended.

(c) Available to owners for their use or used by their qualified service provider.

(d) Accessible on-site to elevator personnel (see also ASME (~~A17.1-8.6.1.2.1(f)~~) A17.1/CSA B44-8.6.1.2.2).

(e) Where special tools or devices are necessary for maintenance and testing of conveyances, they shall remain on-site for the life of the conveyance.

(8) Contractor licenses may be revoked for failure to comply with this subsection.

Legal maintenance contracts notwithstanding, all elevator companies and other approved maintenance providers (see RCW 70.87.270) who continuously demonstrate noncompliance with the maintenance, examination, testing, documentation, and performance of work outlined in ASME A17.1/CSA B44 and this chapter shall:

(a) Be notified in writing by the department outlining the reason or reasons for noncompliance;

(b) Respond to the department inquiry within (~~fifteen~~) 15 days;

(c) Outline a solution(s) agreeable to the department within (~~thirty~~) 30 days;

(i) Otherwise the elevator company's license may be suspended until such a time as they can demonstrate compliance; and

(ii) Other approved maintenance providers shall cease maintenance, examination, and testing until such a time as they can demonstrate compliance. Continuous demonstrations of maintenance, examination, and testing noncompliance shall result in approval being revoked.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-00904, filed 8/31/21, effective 10/1/21; WSR 18-18-068, § 296-96-00904, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-00904, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-00904, filed 11/30/07, effective 1/1/08. 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, § 296-96-00904, filed 5/28/04, effective 6/30/04.]

NEW SECTION

WAC 296-96-00905 Primary point of contact. (1) Duties of the primary point of contact are as follows:

(a) Enrolling in the department of labor and industries elevator program distribution email system via website;

(b) Ensuring the primary point of contact information is updated and correct. This ensures you may be reached during regular working hours regarding:

(i) Actions of the company and/or mechanics;

(ii) Company licensing renewal; and

(iii) Unpaid invoices prior to relicensing.

(c) Staying informed and up to date on RCW, WAC, codes, policies, and technical clarifications adopted and used by the state. This includes WAC 296-96-01010 Installation and alteration permit fees and their methods of calculation;

(d) Attending virtually or in person elevator safety advisory committee meetings held once each quarter.

(i) If the primary point of contact is not able to attend, they shall assign an alternate in their place. The alternate shall adhere to the same communication standards in (e) of this subsection.

(ii) If the primary point of contact or their alternate is not present at more than two of any four sequential elevator safety advisory committee meetings, the contractor will have 90 days to apply for new primary point of contact.

(iii) If multiple licenses are held by the same company, only one primary point of contact of that company is required to attend.

(e) Disseminating information to impacted employees of contractor received from:

(i) Elevator safety advisory committee meetings; and

(ii) Communications received via department of labor and industries elevator program distribution email system.

(f) Signing and certifying the Temporary Mechanic License form as the company representative.

(2) If the elevator program finds one or more of these requirements are not being fulfilled, the program may ask the contractor to start the process for a new primary point of contact.

[]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-00910 Elevator mechanic license categories. The following are the licensing categories for qualified elevator mechanics or temporary elevator mechanics:

(1) **Category (01):** A general elevator mechanic license encompasses the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of all types of elevators and other conveyances in any location covered under chapter 70.87 RCW and this chapter.

(2) **Category (02):** This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following commercial and residential conveyances:

- (a) Residential conveyances:
 - (i) Wheelchair lifts*;
 - (ii) Dumbwaiters;
 - (iii) Incline chairlifts*;
 - (iv) Residential elevators.

*License is not required to remove these.

- (b) Commercial conveyances:
 - (i) Wheelchair lifts;
 - (ii) Dumbwaiters;
 - (iii) Incline chairlifts;
 - (iv) LULA elevators.

(3) **Category (03)**: This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following conveyances in industrial sites and grain terminals:

- (a) Electric and hand-powered manlifts;
- (b) Special purpose elevators; and
- (c) Belt manlifts.

(4) **Category (04)**: This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following conveyances:

- (a) Temporary personnel hoists; and
- (b) Temporary material hoists (~~;~~ and
- ~~(c) Special purpose elevators).~~

(5) **Category (05)**: This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of material lifts.

(6) **Category (06)**:

(a) This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following conveyances:

- (i) Residential wheelchair lifts;
- (ii) Residential dumbwaiters; and
- (iii) Residential incline chairlifts.

(b) Work experience on conveyances in (a)(i), (ii), and (iii) of this subsection may not be all inclusively applied toward the category (02) license requirements.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the public. Such exempt work does not count toward work experience for licensure.

(7) **Category (07)**: This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, and repair of residential inclined elevators.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the public. Such exempt work does not count toward work experience for licensure.

(8) **Category (08)**: This license is limited to maintenance and nonalteration repair and replacement of all conveyances and is further limited to employees of public agencies to obtain and maintain the license. This work should not count towards other licenses.

(9) **Category (09)**: A temporary license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of conveyances in the category for which the license is sought. The license shall be issued pursuant to the conditions of RCW 70.87.250.

(10) **Category (10)**: An emergency license is limited to the installation, alteration, maintenance, inspection, relocation, decommission,

sion, removal, and repair of conveyances by elevator mechanics that are certified by an elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision and is further limited for use during a state of emergency.

(11) **Endorsements:** The program AHJ may provide the ability for category licenses to apply for an endorsement. The endorsement will give the recipient the ability to do additional work on different conveyances outside of their category license they already possess. There are additional education requirements for this endorsement and there may be an additional fee.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-00910, filed 8/31/21, effective 10/1/21; WSR 18-18-068, § 296-96-00910, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-00910, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-00910, filed 11/30/07, effective 1/1/08. 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, § 296-96-00910, filed 5/28/04, effective 6/30/04.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-01000 Permits for new construction and alterations.

(1) Prior to construction, alteration, or relocation of any conveyance, the licensed elevator contractor shall:

(a) Submit an installation application to the department. See WAC 296-96-01010 through 296-96-01025.

(b) Submit plans to the department for approval. See WAC 296-96-01030.

EXCEPTION: Most alterations will not require plans.

(c) Post an approved installation or alteration permit along with any approved plans issued by the department on the job site.

(i) The annual operating certificate is considered suspended once alteration work begins.

(ii) The certificate shall not be reinstated until the alteration work is approved by an inspector employed by the department.

(2) Prior to placing a conveyance in service the licensed elevator contractor shall obtain and pass an inspection or receive written permission from the department.

(3) Failure to comply with subsections (1) and (2) of this section is a violation of this chapter and may result in civil penalties (WAC 296-96-01070 (1)(a) through (d)).

(4) The owner shall obtain and renew an annual operating certificate for each conveyance that they own, except for residential conveyances. See WAC 296-96-01065.

(5) After initial purchase and inspection, private residence conveyance(s) do not require an annual operating certificate. However, annual inspections may be conducted upon request. See WAC 296-96-01045 for the permit process.

(6) For purposes of this rule, permits are not required for "repairs" (see ASME A17.1/CSA B44, Section 8.6.2). Permits are not required when replacing devices that are identical to the original de-

vice (~~or have the same "form, fit, and function"~~) (see WAC 296-96-00700) (see also ASME A17.1/CSA B44, Section 8.6.3).

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-01000, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-01000, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-01000, filed 11/30/07, effective 1/1/08. 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, § 296-96-01000, filed 5/28/04, effective 6/30/04. 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, § 296-96-01000, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02400 Requests for acceptance inspections. (1) The person or firm installing, relocating, or altering a conveyance shall notify the department in writing, at least seven days before requesting any inspection of the work, and shall subject the new, moved, or altered portions of the conveyance to the acceptance tests.

(a) If the scheduled acceptance inspection is not ready, the contractor must cancel the inspection in writing the preceding business day with the scheduled inspector, or a reinspection fee may be charged.

(b) If the inspector is not able to make the scheduled inspection, they must communicate with the elevator contractor in writing the preceding business day.

(2) The department may grant exceptions to this notice requirement.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-02400, filed 8/31/18, effective 10/1/18; WSR 07-24-041, § 296-96-02400, filed 11/30/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02421 Layout plans. A set of legible layout/plans shall be submitted to the department. In addition to the layout criteria in ASME A17.1/CSA B44 these shall include the following:

(1) A machine/control room plan view drawing identifying room dimensions, location of drive machine, motor controller, mainline disconnect, light switch, and door swing;

(2) A hoistway plan view identifying hoistway and conveyance equipment dimensions and clearances, foot print of car enclosure showing doors and inside net dimensions, location and dimensions of hoistway, and car door or gates;

(3) A hoistway elevation view identifying elevation of the hoistway and conveyance equipment dimensions and clearances, the location of the pit ladder, pit light, light switch, pit stop switch, and top and bottom vertical car clearances. The height to the maintainable equipment at the top of the hoistway from the horizontal plane of the

top of the car with the car positioned at the top landing shall be indicated on the hoistway elevation plans; (~~and~~)

(4) Detail drawings identifying specific details of conveyance components: Rail bracket fastening, sill support and fastening, machine beams, entrance assembly detail, and additional seismic requirements (see ASME A17.1/CSA B44, Section 8.4 or 8.5 as applicable);

(5) General conveyance data to include:

- (a) Conveyance type (e.g., electric, hydraulic, platform lift, etc.);
- (b) Rated capacity;
- (c) Building designation (e.g., Elev. #1, Car #2, etc.);
- (d) Rated speed;
- (e) Car enclosure (construction material);
- (f) Standoff panels (if applicable) (submit test data to ASTM E 84 if applicable);
- (g) Door type and manufacturer (single speed, two-speed, center opening, RH/LH opening);
- (h) Car and hall fixture detail;
- (i) Finish floor (tile, carpet) (submit test data to ASTM E 648 if applicable);
- (j) Power unit/drive motor (manufacturer and HP);
- (k) Equipment heat generation (BTU) (items (l) through (p) are applicable only to hydraulic elevators);
- (l) Jack assembly manufacturer;
- (m) Plunger O.D. (if telescoping O.D. of each section);
- (n) Plunger wall thickness;
- (o) Cylinder O.D.;
- (p) Cylinder wall thickness (items (q) through (u) are applicable to roped-hydraulic and/or electric elevators);
- (q) Size and number of suspension means;
- (r) Roping type (1:1, 2:1, underslung);
- (s) Governor location;
- (t) Governor rope size and type;
- (u) Safety manufacturer and type;
- (v) Emergency brake manufacturer and type;
- (w) Car buffer type and stroke;
- (x) CWT buffer type, impact, and stroke; and
- (y) Designed top/bottom runby.

(6) Additional plan views for machine-room-less machine room/machine space, control room/control space as outlined in the ASME A17.1 Appendix Q (see Table Q-1 and Figures Q-1 through Q-6.). These details shall show applicable working clearances for both mechanical and electrical clearances.

(a) Additional ADA compliant clearances shall be noted on the submitted plan views, such as roll-by distances in hallways and lobbies.

(b) Storage for required barricades shall be noted on plan views.

(c) Location for fire extinguishers adjacent to hoistway entrances and rooms that provide access to elevator equipment shall be noted.

(7) The installation of a conveyance shall not begin until an approved set of plans and permit has been issued by the department.

~~((7))~~ (8) The stamped approved plans and permit shall be posted on the job site during the installation and up to the time the conveyance has passed an acceptance inspection.

((8)) (9) Where structural elements are part of any installation, relocation, or alteration, the plans shall be reviewed and stamped by a professional engineer, registered in the state of Washington.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-02421, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-02421, filed 11/27/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02452 Access to machines, overhead sheaves, shackles, and hitch supports. When the machine space is provided inside the hoistway, maintainable items on the machine, overhead sheaves, shackles, and hitch supports shall not be located more than 1981.2 mm (78 in.) from the horizontal plane of the car top.

Measurement must be taken with the car on or below the top directional limit.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02452, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-02452, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-02452, filed 11/27/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02460 Location. (1) The main line disconnect(s) shall be located per NFPA 70, Article 620.51(c) and:

(a) Inside the machine room door on the strike side of the machine or control room door;

(b) Not more than 609.6 mm (24 in.) from the door to the operating handle; and

(c) Be at a height not less than 914.4 mm (36 in.) nor more than 1676.4 mm (66 in.) above the finish floor as measured centerline to the disconnect handle.

(2) For multicar machine rooms the switches shall be grouped together as close as possible to that location.

(3) For machine rooms with double swing doors, the doors shall swing out and the switch(es) shall be located on the wall adjacent to the hinge side of the active door panel.

(4) Shunt-trip breakers, where provided, shall be located in the elevator machine room or control room.

(5) Where shunt-trip breakers are also being used as a main line disconnect, they shall comply with subsections (1) through (3) of this section.

EXCEPTION: Special purpose, residential elevators, and residential inclined elevators are exempt from this section. For LULAs, the main disconnect and car light disconnect shall be located adjacent to the controller when not located in a dedicated machine room. When a machine room is provided it shall comply with this section.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02460, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-02460, filed 8/31/18, effective 10/1/18; WSR 13-24-066, §

296-96-02460, filed 11/27/13, effective 1/1/14; WSR 07-24-041, §
296-96-02460, filed 11/30/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02465 Machine rooms, control rooms, and control spaces. (1) The lighting control switch shall be located inside the machine room or control room within 609.6 mm (24 in.) of the lock jamb side of the access door.

For machine rooms and control rooms with double swing doors, the doors shall swing out and the switch(es) shall be located on the wall adjacent to the hinge side of the active door panel.

(2) Elevator machine room, control room, and control space access doors shall be provided with a sign that reads "Elevator Equipment Room/Authorized Personnel Only! Storage of equipment not pertaining to the elevator is prohibited." The sign shall be located approximately 1524 mm (60 in.) above floor level. Lettering shall not be less than 9.525 mm (0.375 in.) in height and shall contrast with the background. Where double doors are provided, the sign is only required to be provided on the active door panel.

EXCEPTION: Residential conveyances, LULAs and special purpose elevators are exempted from these requirements.

(3) The temperature and humidity shall comply with ASME A17.1/CSA B44. Where no manufacturer's temperature range is available, the room or space shall be kept between 13°C (55°F) and 38°C (100°F).

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, §
296-96-02465, filed 8/31/21, effective 10/1/21; WSR 18-18-070, §
296-96-02465, filed 8/31/18, effective 10/1/18; WSR 07-24-041, §
296-96-02465, filed 11/30/07, effective 1/1/08.]

NEW SECTION

WAC 296-96-02487 State requirements for sprinklers and shunt trips for hydraulic elevators in buildings. Hydraulic elevators are required to have sprinklers in pits, machine rooms, control rooms, control spaces, machine spaces, and control cabinets. There shall be automatic elevator recall prior to shunt trip operation as established in the ASME A17.1 Elevator Code and unabridged NFPA 13 and 72.

[]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02530 Handrails. Handrails are not required. Where handrails are provided in elevator cars, they shall comply with the following:

(1) Be securely attached to the wall;

- (2) Be located at a height between 812.8 mm (32 in.) and 965.2 mm (38 in.) from the top of the handrail to the floor; and
- (3) Be constructed with smooth surfaces and no sharp corners; and
- (4) Be configured (~~with a gripping surface~~) as required by AN-SI/ICC A117.1 for handrails.

Exception: Residential conveyances are excluded from this requirement.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02530, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-02530, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-02530, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-02530, filed 11/30/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02580 Inspection keys. (1) All keys necessary for the operation and maintenance of the elevator(s) shall be provided and kept on-site in a key retainer box.

(2) The key retainer box shall be:

- (a) Located in the elevator lobby at the designated level above the hall buttons or located by the machine room door at a height not more than 1828.8 mm (72 in.) above the floor. Access to the key box shall not require passage through locked doors;
- (b) Readily accessible to inspection personnel;
- (c) Clearly labeled "^{ELEVATOR};"
- (d) Securely mounted;
- (e) Equipped with a (~~1-inch~~) 25.4 mm (1 in.) mortise cylinder cam lock with keyway set to a #39504 barrel type key;
- (f) Keys for access to the elevator machine rooms and for operating elevator equipment shall be labeled as to their function and kept in the key box;
- (g) Mechanical hoistway access devices shall be located in the key box. Where the key cannot fit into the key box, it may be located in the machine/control room;
- (h) Where the box cannot be located as indicated in (a) of this subsection, it shall be permitted to be in an unsecured location (such as the outside portion of a condominium). Other arrangements shall be accommodated with the written permission of the department;
- (i) No persons except the building owner and inspectors shall have access to the key box; and
- (j) All other keys kept elsewhere on-site shall be segregated into groups and secured as required by ASME A17.1/CSA B44, Section 8.1.

Exceptions: The cities of Seattle and Spokane may designate their own options for keys and lockbox arrangement via their rule processes. Residential elevators are exempt from this section.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02580, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-02580, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-02580, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-02580, filed 11/30/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02605 ((Private residence)) Inclined stairway chairlifts. (1) ~~((Battery operated))~~ Private residence, battery operated, inclined stairway chairlifts are not required to be ((permanently wired or installed on)) supplied by an individual branch circuit ((as required by)) in order to comply with NFPA 70 620.51 (A) Exception 2. ((These conveyances shall be permitted to use a cord and plug that will act as the equipment disconnecting means.)) The cord and plug is permitted by the disconnecting means from the outlet to the unit's batteries. A second disconnect shall be provided on the unit and shall comply with the following:

(a) The disconnecting means shall be lockable in the open position.

(b) The disconnecting means shall open all ungrounded main power supply conductors for the motor.

The circuit, which is used for the equipment, shall have overcurrent protection that will protect the circuit and the equipment. The circuit shall have sufficient capacity to support the additional load of the stairway chairlift. Units that are operated by line voltage shall comply with ((NEC)) NFPA 70, 620.51 (A) Exception 2.

(2) ~~((Governor overspeed safety testing shall be verified by manufacturer's documentation (see A18.1 Requirement 9.9.3). Safeties shall be manually tripped at rated speed with no load on the chair (see A18.1 Section 10.4).))~~ Commercial, battery operated, inclined stairway chairlifts installed in compliance with NFPA 70, 620.51(A), Exception No. 2 shall also comply with the following:

(a) A disconnecting means located on the unit shall be provided;

(b) The disconnecting means shall be lockable in the open position;

(c) The disconnecting means shall open all ungrounded main power supply conductors for the motor; and

(d) A sign shall be provided adjacent to the disconnect located on the unit and on the cord and plug end or outlet and shall read as follows: WARNING PARTS OF THE CONTROLLER ARE NOT DE-ENERGIZED BY THIS SWITCH. See NFPA 70, 620.52 (B) and 110.21(B).

(3) If applicable, governor overspeed safety testing shall be verified by manufacturer's documentation (see ASME A18.1, 9.9.2). If 9.9.2 testing documentation is provided, safeties shall be permitted to be manually tripped at its normal speed in the down direction with no load on the chair (see ASME A18.1). If ASME A18.1, 9.9.2 documentation is not provided or applicable, safeties shall be tested with rated load (see ASME A18.1, 10.3.1.1).

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02605, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-02605, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-02605, filed 11/27/13, effective 1/1/14; WSR 07-24-041, § 296-96-02605, filed 11/30/07, effective 1/1/08.]

NEW SECTION

WAC 296-96-02610 Private residence platform lifts. (1) Battery operated private residence platform lifts are not required to be per-

manently wired or installed on an individual branch circuit as required by NFPA 70, 620.51 (A) Exception 1. These conveyances shall be permitted to use a cord and plug that will act as the equipment disconnecting means if the following conditions are met:

(a) The lifts main power source must be from a battery system that is receiving its charge from a cord and plug connected AC battery charger connected to a branch circuit.

(b) If located outside, the charger needs the circuit supplying the battery charger to be protected by a ground fault circuit protection device.

(c) If located outside, the receptacle used to connect to the battery charger must have a cover meeting the requirements of NEC 406.8(B).

(d) The cord must be:

(i) Hard service rated;

(ii) Listed by an electrical testing laboratory approved by the department of labor and industries electrical program;

(iii) In compliance with the requirements of NFPA 70, 400; and

(iv) Properly secured at least every 609.6 mm (24 in.), not presenting a tripping hazard, and be limited to a total of 365.76 cm (12 ft.) in length from the power source to the unit.

(e) A sign must be posted at both the AC and DC source of power disconnecting means and shall read as follows: WARNING PARTS OF THE CONTROLLER ARE NOT DE-ENERGIZED BY THIS SWITCH. See NFPA 70, 620.52 (B) and 110.21(B).

(f) At the DC source of power, a disconnect must be located on the exterior of the lift and shall be lockable in the open position.

[]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02650 Additional required on-site documentation. (1)

Wiring diagrams.

(2) A log identifying applicable tests.

(3) Manufacturer's operational instructions that include the operation of the manual lowering device.

(4) Maintenance logs shall include the following tasks:

(a) Stair chair lifts:

(i) Platform ((lifts)) chair: ((~~(A) Operating control devices;~~

~~(B) Seat, arm rests, and foot rest;~~

~~(C) Rated load and data plate; and~~

~~(D) Ride.) Operating control devices, seat, arm rests, and foot rest, rated load and data plate, and ride.~~

(ii) Machine: ((~~(A) Enclosure;~~

~~(B) Drive machine brake;~~

~~(C) Suspension means;~~

~~(D) Disconnecting means;~~

~~(E) Numbering of equipment;~~

~~(F) Gears and bearings;~~

~~(G) Winding drum;~~

~~(H) Suspension fastenings;~~

~~(I) Slack-rope devices; and~~

~~(J) Overspeed governor.))~~ Enclosure, drive machine brake, suspension means, disconnecting means, numbering of equipment, gears and bearings, winding drum, suspension fastenings, slack-rope devices, and overspeed governor.

~~(iii) Runway: ((A) Normal terminal stopping devices;~~

~~(B) Final terminal stopping devices;~~

~~(C) Head room;~~

~~(D) Guiding members;~~

~~(E) Construction;~~

~~(F) Clearances;~~

~~(G) Traveling cables and junction boxes;~~

~~(H) Guide rail fastenings and equipment; and~~

~~(I) Equipment exposure to weather.))~~ Normal terminal stopping devices, final terminal stopping devices, head room, guiding members, construction, clearances, traveling cables and junction boxes, guide rail fastenings and equipment, and equipment exposure to weather.

~~(b) Inclined platform lifts:~~

~~(i) Platform: ((A) Stop switch;~~

~~(B) Operating control devices;~~

~~(C) Floor;~~

~~(D) Lighting;~~

~~(E) Emergency signal;~~

~~(F) Signs and operating device symbols;~~

~~(G) Rated load and data plates;~~

~~(H) Ride; and~~

~~(I) Arms and retractable ramps.))~~ Stop switch, operating control devices, floor, lighting, emergency signal, signs and operating device symbols, rated load and data plates, ride, and arms and retractable ramps.

~~(ii) Machine: ((A) Enclosure;~~

~~(B) Guarding of exposed auxiliary equipment;~~

~~(C) Drive machine brake;~~

~~(D) Gears and bearings;~~

~~(E) Winding drum;~~

~~(F) Belt or chain drive;~~

~~(G) Secondary and deflector sheaves;~~

~~(H) Suspension fastenings;~~

~~(I) Slack-rope devices;~~

~~(J) Safety device;~~

~~(K) Overspeed governor;~~

~~(L) Disconnecting means;~~

~~(M) Numbering of equipment; and~~

~~(N) Controller.))~~ Enclosure, guarding of exposed auxiliary equipment, drive machine brake, gears and bearings, winding drum, belt or chain drive, secondary and deflector sheaves, suspension fastenings, slack-rope devices, safety device, overspeed governor, disconnecting means, numbering of equipment, and controller.

~~(iii) Runway: ((A) Normal terminal stopping devices;~~

~~(B) Final terminal stopping devices;~~

~~(C) Head room;~~

~~(D) Slack rope devices;~~

~~(E) Safeties and guiding members;~~

~~(F) Construction;~~

~~(G) Clearances;~~

~~(H) Guide rail fastenings and equipment;~~

~~(I) Suspension means; and~~

~~(J) Equipment exposure to weather.))~~ Normal terminal stopping devices, final terminal stopping devices, head room, slack rope devices, safeties and guiding members, construction, clearances, guide rail fastenings and equipment, suspension means, and equipment exposure to weather.

(c) Vertical platform lifts:

(i) Platform: (~~(A) Stop switch;~~

~~(B) Operating control devices;~~

~~(C) Lighting and auxiliary lighting;~~

~~(D) Emergency signaling device;~~

~~(E) Gates and retractable ramps;~~

~~(F) Enclosure;~~

~~(G) Signs and operating device symbols;~~

~~(H) Rated load and data plate; and~~

~~(I) Ride.))~~ Stop switch, operating control devices, lighting and auxiliary lighting, emergency signaling device, gates and retractable ramps, enclosure, signs and operating device symbols, rated load and data plate, and ride.

(ii) Machine: (~~(A) Enclosure;~~

~~(B) Drive machine brake;~~

~~(C) Gears and bearings;~~

~~(D) Winding drum;~~

~~(E) Belt or chain drive machine;~~

~~(F) Secondary or deflector sheaves;~~

~~(G) Suspension fastenings;~~

~~(H) Slack rope device;~~

~~(I) Overspeed governors;~~

~~(J) Hydraulic power unit;~~

~~(K) Control valves; and~~

~~(L) Hydraulic cylinders and supply piping.))~~ Enclosure, drive machine brake, gears and bearings, winding drum, belt or chain drive machine, secondary or deflector sheaves, suspension fastenings, slack rope device, overspeed governors, hydraulic power unit, control valves, hydraulic cylinders and supply piping, numbering of equipment, disconnecting means, and controller.

(iii) Runways: (~~(A) Normal terminal stopping device;~~

~~(B) Final terminal stopping device;~~

~~(C) Head room;~~

~~(D) Slack rope device;~~

~~(E) Safeties and guiding members;~~

~~(F) Construction;~~

~~(G) Clearances;~~

~~(H) Traveling cables;~~

~~(I) Door and gate equipment;~~

~~(J) Suspension fastenings;~~

~~(K) Suspension means; and~~

~~(L) Equipment exposure to weather.))~~ Normal terminal stopping device, final terminal stopping device, head room, slack rope device, safeties and guiding members, construction, clearances, traveling cables, door and gate equipment, suspension fastenings, suspension means, and equipment exposure to weather.

(iv) Outside runway: (~~(A) Doors and gates;~~

~~(B) Door locking devices; and~~

~~(C) Enclosure.))~~ Doors and gates, door locking devices, and enclosure.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02650, filed 8/31/21, effective 10/1/21.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-02700 ((Machine room)) Residential machinery space requirements. (1) ~~Where provided main line disconnects and car light disconnects shall be located adjacent to the controller ((when not located in a dedicated machine room. When located in a dedicated room, commercial machine room requirements shall be followed. Main line disconnects shall comply with WAC 296-96-02460)).~~

(2) Access to the motor brake shall have:

(a) A lockable door that is a minimum of ((6")) 152.4 mm (6 in.) x ((6")) 152.4 mm (6 in.) or ((36 sq. in.)) 914.4 mm² (36 in.²).

(b) A "STOP" switch shall be located within reach of the access door.

(c) A light switch and GFCI receptacle shall be located within reach of the access door.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-02700, filed 8/31/21, effective 10/1/21.]

NEW SECTION

WAC 296-96-02705 Location of speed governor. Where a speed governor is used, it shall be located where it is readily accessible from outside the hoistway, inside the car, or on top of the car and it cannot be struck by any moving object in normal operation or under conditions of overtravel, and where there is sufficient space for full movement of the governor parts.

[]

NEW SECTION

WAC 296-96-02710 Residential governor ropes. The governor ropes, where used, shall be iron, steel, monel metal, or phosphor bronze not less than 6 mm (0.25 in.) in diameter. Tiller rope construction shall not be used.

If equipped with a safety that is operated by the breakage of the suspension means, belts may be used for governor rope. Other means may also be used for governor rope if approved by the AHJ.

[]

NEW SECTION**WAC 296-96-02715 Disconnecting means, hoistwayless elevators.**

Where the controller is located on the car, the disconnecting means shall be located adjacent to the controller. Auxiliary disconnect means shall be provided at the main landing when the main power supply disconnect means is mounted adjacent to the controller on the car.

[]

NEW SECTION

WAC 296-96-02720 Two-way communications means. A two-way communications means permanently installed in the car shall be provided to summon dial or call (one or the other, or both) personnel who can take the appropriate action 24 hours each day. The two-way communications means shall not be transmitted to an automated answering device. A telephone may be connected to either a cellular network, VOIP, or a central telephone exchange shall be installed in the car.

If the normal power source for the communications means fails, the communications means shall automatically transfer to a source of power capable of providing service for at least four hours.

[]

PART C1 - MINIMUM STANDARDS FOR NEW AND ALTERED ((STANDARD APPLICATION)) WAC MATERIAL LIFTS

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05000 Scope. The requirements in this part are intended to cover those stand-alone ((standard application)) WAC material lifts. Where Type-A or Type-B material lifts are installed, they shall comply with ASME A17.1/CSA B44, Part 7.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05000, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-05000, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05010 Definition and use. (1) These rules define a "~~((standard application))~~ WAC material lift" as a fixed stationary conveyance that:

- (a) Has a car or platform moving in guides;
- (b) Serves two or more floors of a building or structure;
- (c) Has a vertical rise of at least ~~((5-ft.))~~ 1524 mm (60 in.) and no more than 18.288 m (60 ft.);
- (d) Has a maximum speed of 0.254 m/s (50 ft./min.);
- (e) Is not part of a conveying system but is an isolated self-contained lift;
- (f) Travels only in an inclined or vertical direction;
- (g) Is operated or supervised by an individual designated by the employer;
- (h) Is installed in a commercial or industrial area not accessible to the general public; and
- (i) May not be operated from within the car.

(2) ~~((Standard application))~~ WAC material lifts shall not carry people so their operation or failure will not endanger people working near them. WAC 296-96-05010 through 296-96-05290 establishes requirements for the construction, installation, and operation of standard material lifts.

These rules do not apply to conveyances that lack a car (platform) and use rollers, belts, tracks, power conveyors, or similar carrying (loading) surfaces. (See ASME/ANSI B20.1.)

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-05010, filed 8/31/18, effective 10/1/18. 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, § 296-96-05010, filed 5/28/04, effective 6/30/04. 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, § 296-96-05010, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05020 Hoistway enclosure. Generally, local codes and ordinances govern hoistway enclosure construction. When not in conflict with a local code requirement, the enclosure shall:

- (1) Be built to a height of 2133.6 mm (84 in.) above each floor, landing and adjacent stairway tread;
- (2) Extend (adjacent to the counterweights) the full height of the floor and 203.2 mm (8 in.) beyond the counterweight raceway;
- (3) Be constructed of either solid material or material with openings that will reject a 50.8 mm (2 in.) diameter ball;
- (4) Be supported and braced so that it does not deflect more than ~~((1-inch))~~ 25.4 mm (1 in.) when subjected to a force of 100 lbs. applied perpendicular at any point;
- (5) A full height hoistway enclosure is required only on the side(s) of the material lift for which the car is not equipped with a gate or enclosure.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05020, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-05020, filed 8/31/18, effective 10/1/18; WSR 07-24-041, § 296-96-05020, filed 11/30/07, effective 1/1/08. 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, § 296-96-05020, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05030 Hoistway gates and doors. Enclosure gates (doors) shall be constructed according to the following standards:

- (1) The gate shall guard the full width of each opening on every landing.
- (2) It shall be built in one of the following styles:
 - (a) Vertically sliding;
 - (b) Biparting;
 - (c) Counter-balanced;
 - (d) Horizontally swinging; or
 - (e) Horizontally sliding.
- (3) Be constructed of either solid material or material with openings that will reject a 50.8 mm (2 in.) diameter ball.
- (4) Be constructed with a distance of not more than 63.5 mm (2.5 in.) between a hoistway gate or hoistway door face and a landing sill edge.
- (5) Be designed and guided to withstand (without being broken, permanently deformed, or displaced from its guides or tracks) a 100 pound lateral pressure applied near its center.
- (6) Be equipped with labeled and listed electrical interlock(s) that prevents the operation of the lift when the doors or gates are open.
- (7) Be constructed with balanced type vertically sliding gates that extend no more than 50.8 mm (2 in.) vertically from the landing threshold and no less than 1676.4 mm (66 in.) above it.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05030, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-05030, filed 8/31/18, effective 10/1/18. 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, § 296-96-05030, filed 5/28/04, effective 6/30/04. 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, § 296-96-05030, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05070 Car enclosures. (1) Lift cars shall have their sides enclosed with solid panels or openwork that will reject a (~~two-inch~~) 50.8 mm (2 in.) diameter ball. On the car sides where there is no gate (door), the enclosure shall extend to a height of at least

1219.2 mm (48 in.) from the floor or to a height necessary to enclose the materials that are being moved, whichever is greater. On the car side next to the counterweight runway, the enclosure shall extend vertically to the car top or underside of the car crosshead and horizontally to at least 152.4 mm (6 in.) on each side of the runway.

(2) (~~Standard application~~) WAC material lifts in unenclosed hoistways shall have a car gate that is constructed of the same material as the car enclosure.

(3) The gate, if required or supplied, shall be the same height as the sidewalls of the car enclosure and shall be provided with a latching device and electrical contact to prevent the operation of the motor and brake if open more than (~~two inches~~) 50.8 mm (2 in.).

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05070, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-05070, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-05070, filed 11/27/13, effective 1/1/14. 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, § 296-96-05070, filed 5/28/04, effective 6/30/04. 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, § 296-96-05070, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05080 Running clearance. Running clearance between a car sill and a hoistway enclosure shall not exceed (~~two inches~~) 50.8 mm (2 in.). If the lift is supplied with a car door or gate, the running clearance is measured from the car sill to the hoistway sill.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-05080, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-05080, filed 11/27/13, effective 1/1/14. 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, § 296-96-05080, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05090 Car and counterweight guides. Car and counterweight guide rails shall be fastened so they will not deflect more than 3.175 mm (0.125 in.). They shall also be strong enough to withstand, without deformation, the application of a car safety when the car is carrying its rated load and traveling at its rated speed.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05090, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-05090, filed 8/31/18, effective 10/1/18. 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, § 296-96-05090, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05190 Pits. The following requirements shall apply to lift pits:

- (1) Have noncombustible floors;
- (2) Be designed to prevent the entry of groundwater into the pit;
- (3) Have floors that are substantially level;
- (4) Where provided, drains shall not be directly connected to sewers;
- (5) Provide safe and convenient access to the pit;
- (6) Have an approved access ladder for pits deeper than 914.4 mm (36 in.); and
- (7) Have nonperforated metal guards installed on the open sides of the counterweights where spring, solid or oil type buffers are attached. These guards shall:
 - (a) Extend from a point not more than 304.8 mm (12 in.) above the pit floor to a point at least 2133.6 mm (84 in.) but not more than 2438.4 mm (96 in.) above the floor;
 - (b) Be fastened to a properly reinforced and braced metal frame which will be at least equal in strength and stiffness to No. 14 U.S. gauge sheet steel; and
 - (c) Be omitted on the pit side where compensating chains or ropes are attached to the counterweight.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05190, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-05190, filed 8/31/18, effective 10/1/18. 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, § 296-96-05190, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-05210 Signage. (1) Each lift shall have the following two signs:

- ~~((1))~~ (a) A "CAPACITY" sign permanently fastened in the lift car and on each landing. This sign shall indicate the rated load of the lift in pounds and be made of metal with 50.8 mm (2 in.) high black letters on a yellow background.
 - ~~((2))~~ (b) A "NO RIDERS" sign conspicuously and permanently fastened on the landing side of all hoistway gates (doors) and in the enclosure of each car. This sign shall be made of metal with 50.8 mm (2 in.) high black letters on a red background.
- (2) A "code data plate" shall be displayed on the equipment. The code data plate shall be made of metal with 50.8 mm (2 in.) high black letters on a yellow background. The data plate must show the following:
- (a) The name of the manufacturer;
 - (b) The date of installation with a blank area for the date; and
 - (c) The code and year it was manufactured.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-05210, filed 8/31/21, effective 10/1/21; WSR 18-18-070, §

296-96-05210, filed 8/31/18, effective 10/1/18. 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, § 296-96-05210, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-07150 Guide rails, track supports and fastenings.

(1) Guides, guide rails, guide rail brackets, and their fastenings and supports shall, at the point of support, deflect 3.175 mm (0.125 in.) or less while resisting horizontal forces encountered during loading. When horizontal force is measured at a mid-point between brackets, guide rails shall deflect 6.35 mm (0.25 in.) or less in any direction.

(2) Fixed, suspended cable guides may be used as a guide member(s). When used, the deflection is to be specified by the manufacturer and approved by a structural engineer licensed in the state of Washington.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-07150, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-07150, filed 8/31/18, effective 10/1/18; WSR 07-24-041, § 296-96-07150, filed 11/30/07, effective 1/1/08. 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, § 296-96-07150, filed 12/22/00, effective 1/22/01.]

**PART D - REGULATIONS FOR EXISTING ELEVATORS, ((STANDARD APPLICATION))
WAC MATERIAL LIFTS, DUMBWAITERS, ((AND)) ESCALATORS, AND ACCESSIBILITY
 LIFTS**

NOTE: This part provides the minimum requirements for existing conveyances. Application of Part D rules apply where a conveyance was not provided, or required to be provided, with a device or system when originally installed or altered. Where Part D does not cover a particular device or system, refer to ASME A17.3.

NEW SECTION

WAC 296-96-23102 Roof access through horizontal hatch-type covers. Fixed wooden ladders are prohibited. Where such ladders exist they shall be replaced with one of the following:

(1) Noncombustible conventional stairway with a slope of not more than 60 degrees from horizontal.

(2) Noncombustible collapsible (retractable) stair.

(3) Noncombustible fixed vertical ladders complying with ANSI A14.3, Standard for Ladders, Fixed and Safety Requirements.

(4) Horizontal hatch-type covers.

(a) While facing the ladder, covers shall be hinged and located so as to open to the left or right side of the opening.

(b) The cover shall be provided with a mechanical-assist means to open (e.g., springs, hydraulic, counterweighted, etc.).

(c) The cover shall be constructed of noncombustible material where required to be replaced.

(d) Where a fixed ladder is provided:

(i) Handrails shall be located on the roof on both sides of the opening in line with the access ladder. They shall extend not less than 914.4 mm (36 in.) in height above the roof level. They shall be located as to provide easy reach from the top of the ladder.

(ii) Means shall be provided to hoist tools and materials to the roof level once the hatch cover is open.

[]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23116 Car numbers. In any building with more than one elevator, numbers at least 50.8 mm (2 in.) in height identifying each car shall be located at the main lobby entrance, inside the car, on the machine, and on the disconnect switch and if the conveyance has a walk-in pit, numbers shall also be installed on the buffer stands. Elevators installed in compliance with ASME A17.1/CSA B44, 2.29 are exempt from this rule.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-23116, filed 8/31/18, effective 10/1/18; WSR 07-24-041, § 296-96-23116, filed 11/30/07, effective 1/1/08. 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, § 296-96-23116, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-23117 Car top guard railings. A standard railing shall be installed on the top of all elevators in compliance with ASME A17.1/CSA B44, 2.14.1.7. Where existing conditions do not permit the railing to be installed according to clearances of 2.14.1.7.2, the following shall apply:

(1) The top railing shall be installed at a height of not less than ~~((1070))~~ 1066.8 mm (42 in.) nor more than ~~((1100))~~ 1092.2 mm (43 in.) from the car top.

(2) Where overhead conditions prevent the top railing from being located between ~~((1070))~~ 1066.8 mm (42 in.) and ~~((1100))~~ 1092.2 mm (43 in.), the railing shall be permitted to be lowered to a height that will still provide the minimum ~~((100))~~ 101.6 mm (4 in.) vertical clearance to the nearest overhead object. In such cases the top railing shall be provided with red and white stripes ~~((50))~~ 50.8 mm (2 in.) in width.

(3) The stripes are only required on the side(s) where the top rail is below ~~((900))~~ 889 mm (35 in.).

(4) Where required, the stripes shall extend the entire length of the top rail.

(5) Where overhead conditions prevent the railing from complying with the vertical height and/or the clearances in 2.14.1.7.2(a) or (b), provide signage as required by WAC 296-96-23119(2).

(6) Toeboards are not required.

Exception: This requirement does not apply to electric manlifts or residential elevators.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-23117, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-23117, filed 8/31/18, effective 10/1/18; WSR 07-24-041, § 296-96-23117, filed 11/30/07, effective 1/1/08. 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, § 296-96-23117, filed 5/28/04, effective 6/30/04.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-23119 Low overhead signs. (1) Elevators that do not have a minimum of 609.6 mm (24 in.) clearance from the crosshead, or any equipment mounted on the crosshead, to the lowest member of the overhead structure in the hoistway when the car has reached its maximum upward movement shall be provided with caution signage. A sign shall be located near the top of car inspection station. An additional sign shall be posted on the hoistway wall. This sign shall be visible when accessing the car top. The sign shall consist of alternating 101.6 mm (4 in.) diagonal red and white stripes and shall clearly state "danger low clearance" in lettering not less than 101.6 mm (4 in.) in height.

(2) Where required by WAC 296-96-23117(5), a sign shall be provided that reads "Caution: Low Clearances Above Guardrail."

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-23119, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-23119, filed 8/31/18, effective 10/1/18; WSR 07-24-041, § 296-96-23119, filed 11/30/07, effective 1/1/08. 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, § 296-96-23119, filed 5/28/04, effective 6/30/04.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23122 Machine room and machinery space illumination. Elevators installed under the 1996 and earlier editions of ASME A17.1/CSA B44 shall have a minimum of 10 foot-candles of illumination at floor level within the working areas in machine rooms and machinery spaces.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-23122, filed 8/31/18, effective 10/1/18; WSR 07-24-041, §

296-96-23122, filed 11/30/07, effective 1/1/08. 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, § 296-96-23122, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-23126 Guarding of equipment. (1) Where feasible, gears, sprockets, sheaves, cables, tapes, belts and chains shall be fitted with suitable guards to prevent accidental contact.

(2) Openings in machine room floors above the hoistway must be guarded to prevent tools and materials from falling into the hoistway below.

(3) Open grating in machine room floors shall reject a ball 12.7 mm (0.5 in.) in diameter.

(4) Ventilation grids where exposed to the hoistway below shall be firmly fastened to prevent accidental removal and shall be fitted with 12.7 mm (0.5 in.) wire mesh securely attached to the grid.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-23126, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-23126, filed 8/31/18, effective 10/1/18. 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, § 296-96-23126, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-23130 Pit access. Access ladders shall be installed in elevator pits 914.4 mm (36 in.) or deeper. Where constraints prohibit the installation of a pit ladder conforming to ASME A17.1/CSA B44, 2.2.4.2, a retractable ladder shall be permitted to be installed in accordance with 2.2.4.2.7 and 2.2.4.2.8 of ASME A17.1/CSA B44.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-23130, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-23130, filed 8/31/18, effective 10/1/18. 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, § 296-96-23130, filed 12/22/00, effective 1/22/01.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-23605 Examination of ((standard application)) WAC material lifts, special purpose elevators, electric manlifts, and hand-powered manlifts. (1) Examination ((standard application)) WAC material lifts, special purpose lifts, electric manlifts and hand elevators shall conform to the following:

(a) Annual examination requirements for electrical elevators. Service providers shall furnish documentation to include the following components or systems that shall be examined if installed.

(b) Inside car: (~~(i) Stop switches;~~
~~(ii) Operating control devices;~~
~~(iii) Car lighting and auxiliary lighting*;~~
~~(iv) Car emergency signal;~~
~~(v) Car door or gate;~~
~~(vi) Ventilation;~~
~~(vii) Restricted opening of car or hoistway doors;~~
~~(viii) Car ride;~~
~~(ix) Stopping accuracy;~~
~~(x) Car enclosure;~~
~~(xi) Emergency exits;~~
~~(xii) Signs and operating device symbols; and~~
~~(xiii) Equipment exposure to weather*.) Stop switches, operating control devices, car lighting and auxiliary lighting*, car emergency signal, car door or gate, ventilation, restricted opening of car or hoistway doors, car ride, stopping accuracy, car enclosure, emergency exits, signs and operating device symbols; and equipment exposure to weather*.~~

(c) Machine room/control room: (~~(i) Guarding of equipment;~~
~~(ii) Stop switch;~~
~~(iii) Disconnecting means and control;~~
~~(iv) Controller wiring, fuses, grounding, etc.;~~
~~(v) Machinery supports and fastenings;~~
~~(vi) Drive machine brakes;~~
~~(vii) Traction drive machines;~~
~~(viii) Gears, bearings, and flexible connections;~~
~~(ix) Winding drum machine;~~
~~(x) Absorption of regenerated power;~~
~~(xi) Traction sheaves;~~
~~(xii) Secondary and deflector sheaves;~~
~~(xiii) Rope fastenings;~~
~~(xiv) Operating devices;~~
~~(xv) Code data plate*;~~
~~(xvi) Slack rope devices;~~
~~(xvii) Wiring diagrams;~~
~~(xviii) Rope retainers or restraints;~~
~~(xix) Equipment exposure to weather*;~~ and
~~(xx) Fire extinguisher*.) Guarding of equipment, stop switch, disconnecting means and control, controller wiring, fuses, grounding, etc., machinery supports and fastenings, drive machine brakes, traction drive machines, gears, bearings, and flexible connections, winding drum machine, absorption of regenerated power, traction sheaves, secondary and deflector sheaves, rope fastenings, operating devices, code data plate*, slack rope devices, wiring diagrams, rope retainers or restraints, equipment exposure to weather*, and fire extinguisher*.~~

(d) Top-of-car:

~~(i) (Top-of-car stop switch;~~
~~(ii) Car top light and outlet;~~
~~(iii) Top-of-car operating device and/or working platforms;~~
~~(iv) Car, overhead, and deflector sheaves;~~
~~(v) Crosshead data plate;~~
~~(vi) Traveling cables and junction boxes;~~
~~(vii) Door and gate equipment;~~
~~(viii) Car frame and stiles;~~

- ~~(ix) Guide rails fastening and equipment;~~
- ~~(x) Governor rope;~~
- ~~(xi) Governor releasing carrier;~~
- ~~(xii) Fastening and hitch plate;~~
- ~~(xiii) Suspension means;~~
- ~~(xiv) Compensation means;~~
- ~~(xv) Working areas on the car top:~~
 - ~~(A) Means to prevent unexpected movement.~~
 - ~~(B) Unexpected car movement device.~~
 - ~~(C) Operating instructions for unexpected car movement device.~~
 - ~~(D) Operating instructions for egress and reentry procedure.~~
- ~~(xvi) Machinery supports and fastenings;~~
- ~~(xvii) Guarding of exposed auxiliary equipment;~~
- ~~(xviii) Rope retainers and snag guards;~~
- ~~(xix) Position restraints;~~
- ~~(xx) Top emergency exit;~~
- ~~(xxi) Hoistway construction*;~~ and

(xxii) Equipment exposure to weather*.) Top-of-car stop switch, car top light and outlet, top-of-car operating device and/or working platforms, car, overhead, and deflector sheaves, crosshead data plate, traveling cables and junction boxes, door and gate equipment, car frame and stiles, guide rails fastening and equipment, governor rope, governor releasing carrier, fastening and hitch plate, suspension means, compensation means, machinery supports and fastenings, guarding of exposed auxiliary equipment, rope retainers and snag guards, position restraints, top emergency exit, hoistway construction*, equipment exposure to weather*; and

(ii) Working areas on the car top: Means to prevent unexpected movement, unexpected car movement device, operating instructions for unexpected care movement device, and operating instructions for egress and reentry procedure.

- ~~(e) Outside hoistway: ((i) Car platform guard;~~
- ~~(ii) Hoistway doors;~~
- ~~(iii) Hoistway door locking devices;~~
- ~~(iv) Access to hoistway;~~
- ~~(v) Emergency and access hoistway openings;~~
- ~~(vi) Separate counterweight hoistway;~~
- ~~(vii) Elevator parking devices;~~ and
- ~~(viii) Equipment exposure to weather*.)~~

Car platform guard, hoistway doors, hoistway door locking devices, access to hoistway, emergency and access hoistway openings, separate counterweight hoistway, elevator parking devices, and equipment exposure to weather*.

- ~~(f) Pit: ((i) Pit access, lighting, stop switch and condition;~~
- ~~(ii) Bottom clearance and runby;~~
- ~~(iii) Traveling cables;~~
- ~~(iv) Compensating chains, ropes, and sheaves;~~
- ~~(v) Car frame and platform;~~
- ~~(vi) Machinery supports and fastenings;~~
- ~~(vii) Guarding of exposed auxiliary equipment;~~
- ~~(viii) Equipment exposure to weather*;~~ and
- ~~(ix) Buffers.)~~

Pit access, lighting, stop switch and condition, bottom clearance and runby, traveling cables, compensating chains, ropes, and sheaves, car frame and platform, machinery supports and fastenings, guarding of exposed auxiliary equipment, equipment exposure to weather*, and buffers.

Note: (*) A visual component that must be reported to the owner.

(2) Annual examination requirements for hydraulic elevators. Service providers shall furnish documentation to include the following components or systems that shall be examined if installed.

(a) Inside the car: (~~(i) Stop switches;~~
~~(ii) Operating control devices;~~
~~(iii) Car lighting and auxiliary lighting;~~
~~(iv) Car emergency signal;~~
~~(v) Car door or gate;~~
~~(vi) Emergency exit;~~
~~(vii) Ventilation;~~
~~(viii) Signs and operating device symbols;~~
~~(ix) Restricted opening of car or hoistway doors;~~
~~(x) Car ride;~~
~~(xi) Stopping accuracy;~~
~~(xii) Car enclosure; and~~
~~(xiii) Equipment exposure to weather.)) Stop switches, operating control devices, car lighting and auxiliary lighting, car emergency signal, car door or gate, emergency exit, ventilation, signs and operating device symbols, restricted opening of car or hoistway doors, car ride, stopping accuracy, car enclosure, and equipment exposure to weather.~~

(b) Machine room/control room: (~~(i) Stop switch;~~
~~(ii) Disconnecting means and control;~~
~~(iii) Controller wiring, fuses, grounding, etc.;~~
~~(iv) Hydraulic power unit;~~
~~(v) Tanks*;~~
~~(vi) Wiring diagrams;~~
~~(vii) Code data plate*;~~
~~(viii) Equipment exposure to weather*;~~ and
~~(ix) Fire extinguisher*.) Stop switch, disconnecting means and control, controller wiring, fuses, grounding, etc., hydraulic power unit, tanks*, wiring diagram, code data plate*, equipment exposure to weather*, and fire extinguisher*.~~

(c) Top-of-car: (~~(i) Top-of-car stop switch;~~
~~(ii) Car top light and outlet;~~
~~(iii) Top-of-car operating device and working platforms;~~
~~(iv) Top emergency exit;~~
~~(v) Traveling cables and junction boxes;~~
~~(vi) Door and gate equipment;~~
~~(vii) Car frame and stiles;~~
~~(viii) Guide rails fastening and equipment;~~
~~(ix) Governor rope;~~
~~(x) Wire rope fastening and hitch plate;~~
~~(xi) Suspension rope;~~
~~(xii) Slack rope device;~~
~~(xiii) Traveling sheave;~~
~~(xiv) Crosshead data plate*;~~
~~(xv) Guarding of equipment; and~~
~~(xvi) Equipment exposure to weather*.) Top-of-car stop switch, car top light and outlet, top-of-car operating device and working platforms, top emergency exit, traveling cables and junction boxes, door and gate equipment, car frame and stiles, guide rails fastening and equipment, governor rope, wire rope fastening and hitch plate, suspension rope, slack rope device, traveling sheave, crosshead data plate*, guarding of equipment, and equipment exposure to weather*.~~

(d) Outside hoistway: (~~(i) Car platform guard;~~
~~(ii) Hoistway doors;~~

~~(iii) Hoistway door locking devices;~~
~~(iv) Access to hoistway; and~~
~~(v) Equipment exposure to weather*.)~~ Car platform guard, hoistway doors, hoistway door locking devices, access to hoistway, and equipment exposure to weather*.
 (e) Pit: (~~(i) Pit access, lighting, stop switch, and condition;~~
~~(ii) Bottom clearance and runby;~~
~~(iii) Plunger and cylinder;~~
~~(iv) Traveling cables;~~
~~(v) Car frame and platform;~~
~~(vi) Supply piping;~~
~~(vii) Governor rope tension device;~~
~~(viii) Machinery supports and fastenings;~~
~~(ix) Guarding of exposed auxiliary equipment; and~~
~~(x) Equipment exposure to weather*.)~~ Pit access, lighting, stop switch, and condition, bottom clearance and runby, plunger and cylinder, traveling cables, car frame and platform, supply piping, governor rope tension device, machinery supports and fastenings, guarding of exposed auxiliary equipment, and equipment exposure to weather*.

Note: (*) A visual component that must be report to the owner.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-23605, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-23605, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-23605, filed 11/27/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23606 Installations placed in ((voluntary)) red tag status. (1) Maintenance, examinations, and safety tests shall not be required when an installation is placed in ((voluntary)) red tag status. All code required maintenance, examinations, and safety tests shall be up to date, prior to removal of the red tag.

(2) A conveyance in red tag status for two years or more shall be subject to witnessing by the inspector for the category tests due and may include ASME A17.1/CSA B44, 8.11 items, before being placed back in service.

(3) Annual operating certificate, maintenance, examinations, inspections, and tests shall not be required when an installation is placed in ((voluntary)) red tag status.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-23606, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-23606, filed 11/27/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-23701 Maintenance and tests on commercial accessibility lifts. (1) One- and five-year inspection test tags ((in accordance with ASME A18.1, Section 10.3,)) shall be required, attached, and

visible. (~~A full load safety test shall be performed with weights on all commercial accessibility equipment.~~)

(2) The owner shall ensure that the accessibility lifts are routinely examined and maintained in accordance with ASME A18.1, Section 11 and with this subpart.

(3) Documentation of tests, examinations and maintenance shall be readily accessible on-site within the written maintenance program (WMP).

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-23701, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-23701, filed 8/31/18, effective 10/1/18; WSR 13-24-066, § 296-96-23701, filed 11/27/13, effective 1/1/14.]

Subpart VI
((~~Standard Application~~) WAC Material Lifts)

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24000 Applicable codes and rules. (~~Standard application~~) WAC material lifts shall comply with the rules adopted by the department that were in effect at the time the conveyance was permitted, regardless of whether the rule(s) has been repealed, unless any new rule specifically states that it applies to all conveyances regardless of when the conveyance was permitted. Copies of previous rules adopted by the department are available upon request.

If the department determines that a (~~standard application~~) WAC material lift was installed without a permit and/or without an inspection, the conveyance will be required to comply with the current rules adopted by the department at time of discovery.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24000, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24112 Runway clearances. (1) If the car sides extend less than 1.8288 m (6 ft.) above the floor of the car, there shall be no obstruction along the runway within 609.6 mm (24 in.) of the car sides.

EXCEPTION: When solid guards are installed on the obstruction in both directions of travel which project at least 14 in. in line with the direction of travel, the running clearance may be reduced to 7 in. The guard shall be arched and the edges rounded to eliminate shear hazard.

(2) Guiding members and moving parts of the inclined private residence elevator shall be kept free of brush and other types of materi-

al that might either impede the travel or cause deterioration of the equipment over time.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24112, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24115 Landing enclosures and gates. Any landing enclosures and gates shall have:

(1) A railing at least 1066.8 mm (42 in.) high to protect all landing platforms and those areas of a building used as landing platforms; and

(2) A gate whose height is equal to the height of the railing to protect the passenger landing opening.

(a) Gates may either be a horizontally sliding type or a swing type; and

(b) All gates shall be equipped with a latch that holds the gate closed and an electrical contact to prevent movement of the car when a gate is open.

(3) Railing enclosure and gate shall reject a 38.1 mm (1.5 in.) diameter ball.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24115, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24118 Bumpers and buffers. (1) If spring or equivalent type buffers are not being used and rated speeds do not exceed 50 ft. per minute, solid bumpers shall be installed. Solid bumpers shall:

(a) Be built of wood or other suitable resilient material;

(b) Have the ability to resist deterioration from weather;

(c) Have sufficient strength to withstand, without failure, the impact of a descending car carrying its rated load or counterweight and traveling at 115 percent of its rated speed.

(2) Spring type buffers shall be installed when speeds exceed 50 ft. per minute. Spring buffers shall:

(a) Be built with a minimum stroke of (~~(3/4 in.)~~) 19.05 mm (0.75 in.) and with a maximum stroke of (~~(1-1/2 in.)~~) 38.1 mm (1.5 in.);

(b) Not fully compress when struck by a car carrying its rated load or counterweight and traveling at 115 percent of its rated speed.

(3) Inclined private resident elevators are not required to have bumpers and buffers except when obstructions are encountered.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24118, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24127 Maximum rated speed. The maximum rated speed of an incline elevator, measured along the incline, is 0.381 m/s (75 ft./min.).

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24127, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24133 Car enclosures. Car enclosures shall be:

(1) Enclosed on all sides, except at the entrance, to a height of at least 1066.8 mm (42 in.);

(2) Enclosed with a type of material that will reject a 38.1 mm (1.5 in.) diameter ball;

(3) Securely fastened to the car platform so that it cannot become loose or displaced due to ordinary service, application of the car safety, or car contact with a buffer;

(4) Built to withstand a 75 lb. pressure, horizontally applied at any point on the wall, without causing a wall deflection that reduces running clearance below (~~(3/4 in.)~~) 19.05 mm (0.75 in.) or above 25.4 mm (1 in.);

(5) Weather resistant plastic and tempered safety glass may be used in car enclosures.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24133, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24136 Car doors and gates. (1) All car entrances shall be protected by a door or gate. The height of the door or gate shall be at least 1066.8 mm (42 in.) and equal to the height of the car enclosure. Doors and gates may be of either a solid design or an openwork design. If of an openwork design, the door or gate shall be able to reject a 76.2 mm (3 in.) diameter ball. After the effective date of these rules the diameter will be reduced to 38.1 mm (1.5 in.).

(2) Car doors or gates shall be equipped with an electric contact that prevents the elevator from operating unless the door or gate is securely closed. If the gate is a swing type opening outward from the car, the electric contact shall not be made until the gate is securely latched.

(3) All car doors or gates shall be manually operated.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24136, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24139 Capacity and data plates. (1) The manufacturer shall install a weather resistant capacity plate. It shall be securely fastened to the car in a conspicuous place and state the car's rated load in pounds using letters at least (~~1/4 in.~~) 19.05 mm (0.75 in.) high.

(2) The manufacturer shall install a metal data plate showing the car's weight, speed, suspension means data, manufacturer's name and date of installation. The data plate shall be securely fastened in a conspicuous place in the machine area.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24139, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24142 Guide rails, track supports and fastenings.

(1) Guides, guide rails, guide rail brackets, splice plates, and fastenings shall be made of steel or other metals conforming to the requirements of this section.

(2) Guides, guide rails, guide rail brackets, and their fastenings and supports shall, at the point of support, deflect (~~1/8 in.~~) 3.175 mm (0.125 in.) or less while resisting horizontal forces encountered during loading. When horizontal force is measured at a midpoint between brackets, guide rails shall deflect (~~1/4 in.~~) 6.35 mm (0.25 in.) or less in any direction. Fixed, suspended cable guides shall be permitted to be used as guide members. When cable guides are used, the deflection is to be specified by the manufacturer and approved by the structural engineer licensed in the state of Washington.

(3) The top and bottom of each guide or guide rail run shall not allow a car and counterweight guiding members to travel beyond the guide rail ends.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24142, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24148 Safeties and governors. (1) All inclined private residence elevators shall be equipped with a safety capable of stopping and sustaining a car carrying its rated load.

(a) Elevator safeties shall be type "A" or "B" or other devices approved by the department and shall be operated by a speed governor.

(b) Elevator safeties shall operate independently of governor speed action and without delay when a hoist rope breaks.

(2) Governors shall operate to set the safety at a maximum of 140 percent of rated speed. Upon slackening of the hoist ropes the safety shall set without appreciable delay and independently of the speed governor.

- (a) The governor shall be located where:
- (i) The governor will not be struck by the car or counterweight if over-travel occurs;
- (ii) All parts can freely and fully move;
- (iii) The governor is accessible for a complete examination.
- (b) Governors are required to be of the mechanical type; and
- (c) Belt driven governors shall be monitored. In the case of belt breakage or disengagement, the car shall be shut down.
- (3) If ropes are used, the ropes shall be made of iron, steel, monel metal or phosphor bronze and be at least (~~(1/4 in.)~~) 6.35 mm (0.25 in.) in diameter. Tiller rope construction shall not be used.
- (4) Motor-control circuits and brake-control circuits shall be opened either before the safety applies or at the time the safety applies.
- (5) All safeties shall apply mechanically; electrically operated safeties shall not be used.
- (6) All winding drum type inclined elevators that use rope suspensions shall be equipped with a manually reset slack-rope device. During a car's descent, if the travel of the car is obstructed and the hoisting ropes go slack, the slack-rope device shall stop power to the elevator motor and brake.
- (7) Cast iron shall not be used to build any elevator safety part that stops and sustains the elevator.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24148, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24154 Driving machines and sheaves. (1) Winding drums, traction sheaves, overhead sheaves and deflecting sheaves shall:

- (a) Be made of cast iron or steel;
- (b) Have diameters at least 30 times the diameter of the wire hoisting ropes; and
- (c) Have machined rope grooves.

EXCEPTIONS:

- If 8 x 19 steel ropes are used, drum and sheave diameters are permitted to be reduced to 21 times the diameter of the hoisting rope.
- Existing incline lifts suspended by cables are not required to have machine grooves, except for the first row of cables wrapped on the drum and a tracking device shall be required to monitor the winding of the cable on the drum.
- On existing inclined lifts suspended by cables that do not have machine grooves on the drum, the first layer of ropes will be recognized as providing the same traction as grooves, provided that this layer remains on the drum at all times and is not allowed to wind out. Such lifts shall be provided with a rope tracking device to ensure that the rope does not wind over itself on the drum.

(2) The factor of safety, based on the static load (the rated load plus the weight of the car, ropes, counterweights, etc.) to be used in the design of driving machines and sheaves, shall be at least:

- (a) 8 For driving machines and sheaves built of wrought iron and steel; or
- (b) 10 For driving machines built of cast iron, cast steel or other materials.

(3) Set screw type fastenings shall not be substituted for keys or pins if connections are subject to torque or tension.

(4) Gears:

- (a) When connecting drums or sheaves to the main driving gear, friction gears, clutch mechanisms or couplings shall not be used.
- (b) Worm gears having cast iron teeth shall not be used.

(5) Brakes:

(a) Electric brakes shall be of the friction type set by springs and shall release electrically.

(b) All brakes shall be able to stop and hold an elevator carrying 125 percent of its rated load.

(c) At least one brake shall be mounted so that the drum will hold the rated load in the case of gearbox failure.

(d) If a single ground or short-circuit, a counter-voltage or a motor field discharge occurs and the operating device is set in the stop position, the brake magnet shall set the brake.

(6) Driving machines:

(a) A driving machine shall be permitted to be mounted on an elevator chassis or in a remote location. However, if mounted in a remote location, all sheaves and sprockets shall be guarded and positioned so the hoisting ropes and chains remain properly aligned while the elevator is in use.

(b) Screw type machines shall not be used.

(c) Hydraulic driving machines shall conform to ASME A17.1/CSA B44.

(d) Roped-hydraulic machines shall be permitted to be used.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24154, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24163 Suspension means. (1) When a chassis is suspended from a driving machine by a wire rope, a single method of suspension may be used. The suspension means shall be any one of the following:

(a) Steel elevator wire rope;

(b) Steel aircraft cable; or

(c) Roller chain conforming to ANSI transmission roller chains and sprocket teeth.

(2) Steel tapes shall not be used as a suspension method.

(3) The minimum diameter of hoist ropes or cables shall be ((1/4 in.)) 6.35 mm (0.25 in.) galvanized elevator wire rope and ((3/16 in.)) 4.7752 mm (0.188 in.) aircraft cable.

(4) Factor of safety:

(a) The minimum factor of safety for a suspension method shall be not less than 8 based upon the rope tension while elevating a car carrying its rated load.

(b) In no case, shall the rated breaking strength of the rope be less than 4,000 lbs.

(5) The contact arc of a wire rope on a traction sheave shall be sufficient to produce adequate traction under all load conditions.

(6) All wire ropes anchored to a winding drum shall have at least one full turn of rope on the drum when the car or counterweight reaches its over-travel limit.

(7) The winding drum ends of car and counterweight wire ropes shall be secured by:

(a) Clamps on the inside of the drum;

(b) Return loop;

(c) Properly made individual tapered babbitted sockets; or

(d) Properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(8) The ends of wire ropes shall be fastened to cars or counterweights by:

(a) Return loop; or

(b) Properly made individual tapered babbitted sockets that conform to ASME A17.1/CSA B44 requirements. (The diameter of the hole in the small end of the socket shall not exceed the nominal diameter of the rope by more than (~~(3/32 in.)~~) 2.3876 mm (0.094 in.)); or properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(9) Rope repair:

(a) Car and counterweight wire ropes shall not be lengthened or repaired by splicing.

(b) If a single wire rope in a set is worn or damaged and needs to be replaced, the entire set shall be replaced.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24163, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24221 Bumpers and buffers. Solid bumpers or spring type buffers may be used.

(1) Solid bumpers shall:

(a) Be built of wood or other suitable resilient material;

(b) Have the ability to resist deterioration from weather; and

(c) Have sufficient strength to withstand, without failure, the impact of a descending conveyance carrying its rated load or counterweight while traveling at 115 percent of its rated speed.

(2) Spring type buffers, if used, shall:

(a) Be built with a minimum stroke of (~~(3/4 in.)~~) 19.05 mm (0.75 in.) and with a maximum stroke of (~~(1-1/2 in.)~~) 38.1 mm (1.5 in.); and

(b) Not fully compress when struck by the conveyance carrying its rated load or counterweight and traveling at 115 percent of its rated speed.

(3) Inclined private residence conveyances for transporting property are not required to have bumpers and buffers except when obstructions are encountered.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24221, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24231 Rated speed. The maximum rated speed of an inclined conveyance, measured along the incline, is (~~(75 ft./min)~~) 0.381 m/s (75 ft./min.).

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24231, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24237 Car enclosures. (1) Car enclosures are not required; however, if provided, the car enclosure shall be:

(a) Securely fastened to the car platform so that it cannot become loose or displaced due to ordinary service, application of the conveyance safety, or from the conveyance coming into contact with the buffer.

(b) Built to withstand a 75 lb. pressure, horizontally applied to any point on the wall, without causing deflection to the wall that reduces running clearance below (~~(3/4 in.)~~) 19.05 mm (0.75 in.) or above 25.4 mm (1 in.).

(2) If glass or plastic is used in the car enclosure, it shall be weather resistant plastic or tempered safety glass.

(3) Where there is no car enclosure, a means shall be provided to secure all materials to the platform.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24237, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24240 Capacity and data plates. (1) The manufacturer shall install a weather resistant capacity plate. It shall be securely fastened to the conveyance in a conspicuous place and state the conveyance's rated load in pounds using letters at least (~~(1/4 in.)~~) 6.35 mm (0.25 in.) high.

(2) The manufacturer shall install a metal data plate showing the conveyance's weight, speed, suspension means data, manufacturer's name and date of installation. The data plate shall be securely fastened in a conspicuous place in the machine area.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24240, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24243 Guide rails, track supports, and fastenings.

(1) Guides, guide rails, guide rail brackets, splice plates, and fastenings shall be made of steel or other metals conforming to the requirements of this section.

(2) Guides, guide rails, guide rail brackets, and their fastenings and supports shall, at the point of support, deflect (~~(1/8 in.)~~) 3.175 mm (0.125 in.) or less while resisting horizontal forces encoun-

tered during loading. When horizontal force is measured at a midpoint between brackets, guide rails shall deflect (~~(1/4 in.)~~) 6.35 mm (0.25 in.) or less in any direction.

(3) The top and bottom of each guide or guide rail run shall not allow the conveyance and counterweight guiding members to travel beyond the guide rail ends.

(4) Guides for inclined private residence conveyances shall have no more stresses and deflection than allowed by the manufacturer's specifications.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24243, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24255 Drive machines, sheaves and brakes. (1) All new winding drums, traction sheaves, overhead sheaves and deflecting sheaves shall:

(a) Be made of cast iron or steel;

(b) Have diameters at least 30 times the diameter of the wire hoisting ropes;

EXCEPTION: If 8 x 19 steel ropes are used, drum and sheave diameters may be reduced to 21 times the diameter of the hoisting rope.

(c) Have machined rope grooves.

(2) The factor of safety, based on the static load (the rated load plus the weight of the car, ropes, counterweights, etc.) to be used in the design of driving machines and sheaves, shall be at least 5.

(3) Set screw type fastenings shall not be substituted for keys or pins if connections are subject to torque or tension.

(4) Gears:

(a) When connecting drums or sheaves to the main driving gear, friction gears, clutch mechanisms or couplings shall not be used.

(b) Worm gears having cast iron teeth shall not be used.

(5) Brakes:

(a) Electric brakes shall be of the friction type set by springs and shall release electrically.

(b) All brakes shall be able to stop and hold a car carrying 125 percent of its rated load.

(c) At least one brake shall be mounted on the load side of the driving machine's worm shaft. On indirectly driven lifts, brakes shall engage when the driving machine fails.

(d) If a single ground or short-circuit, a counter-voltage or a motor field discharge occurs and the operating device is set in the stop position, the brake magnet shall set the brake.

(6) Driving machines:

(a) A driving machine may be mounted on a conveyance chassis or in a remote location. However, if mounted in a remote location all sheaves and sprockets shall be guarded and positioned so the hoisting ropes and chains remain properly aligned while the conveyance is in use.

(b) Screw type machines shall not be used.

(c) Hydraulic driving machines shall conform to ASME A17.1/CSA

B44.

- (d) Roped-hydraulic machines may be used.
- (e) Rack and pinion drive may be used.

EXCEPTION: Existing inclined private residence conveyances for transporting property may use wrapped cable drums as long as they do not show signs of excessive wear.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24255, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24264 Suspension means. (1) When a chassis is suspended from a driving machine by a wire rope, a single method of suspension may be used. The suspension means may be any one of the following:

- (a) Steel elevator wire rope;
 - (b) Steel aircraft cable; or
 - (c) Roller chain conforming to ANSI transmission roller chains and sprocket teeth.
- (2) Steel tapes shall not be used as a suspension method.
- (3) The minimum diameter of hoist ropes or cables shall be ((~~1/4 in.~~) 6.35 mm (0.25 in.) galvanized elevator wire rope and ((~~3/16 in.~~) 4.7752 mm (0.188 in.) aircraft cable.

(4) Factor of safety:

(a) The minimum factor of safety for a suspension method is 5 based upon the rope tension while elevating the elevator carrying its rated load.

(b) In no case, shall the rated breaking strength of the rope be less than 4,000 lbs.

(5) The contact arc of a wire rope on a traction sheave shall be sufficient to produce adequate traction under all load conditions.

(6) All wire ropes anchored to a winding drum shall have a least one full turn of rope on the drum when the car or counterweight reaches its over-travel limit.

(7) The winding drum ends of car and counterweight wire ropes shall be secured by:

- (a) Clamps on the inside of the drum;
- (b) Return loop;
- (c) Properly made individual tapered babbitted sockets; or
- (d) Properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

(8) The ends of wire ropes shall be fastened to cars or counterweights by:

- (a) Return loop;
- (b) Properly made individual tapered babbitted sockets that conform to ASME A17.1/CSA B44 requirements (the diameter of the hole in the small end of the socket shall not exceed the nominal diameter of the rope by more than ((~~3/32 in.~~) 2.3876 mm (0.094 in.)); or
- (c) Properly attached fittings recommended by wire rope manufacturers.

U-bolt type clamps shall not be used.

- (9) Rope repair:
 - (a) Car and counterweight wire ropes shall not be lengthened or repaired by splicing.

(b) If a single wire rope in a set is worn or damaged and needs to be replaced, the entire set shall be replaced.

(10) A metal or plastic data tag shall be securely attached to one of the wire rope fastenings each time the ropes are replaced or reshackled. The data tag shall include:

- (a) The diameter of the ropes in inches; and
- (b) The manufacturer's rated breaking strength.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24264, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24279 Additional requirements. (1) All inclined private residence conveyances for transporting property shall be equipped with:

- (a) A manual method capable of moving the conveyance in accordance with ASME A17.1/CSA B44; and
 - (b) A machine brake with a lever to release the brake allowing movement by use of the manual method.
- (2) Machinery spaces shall be protected from weather and accidental contact. Machinery spaces shall be locked.
- (3) Metal signs stating, "NO RIDERS" in 50.8 mm (2.0 in.) letters shall be conspicuously posted and permanently attached to the conveyance and at each landing.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24279, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-24457 Up-limit stop devices. (1) Two separate automatic stop devices shall be provided to cut off the power and apply the brake when a loaded step passes the upper terminal landing. One of these devices shall consist of a switch mechanically operated by the belt or step roller. The second device shall consist of any of the following:

- (a) A roller switch located above but not in line with the first switch;
 - (b) A photocell and light source (an "electric eye"); or
 - (c) A switch activated by a lever, bar, rod, or plate.
- (i) If a plate is used, it shall be positioned above the head pulley so it barely clears a passing step.
- (ii) If a bar is used, the bar shall be of the "breakaway" type.
- (2) The stop device shall stop the lift before a loaded step reaches a point 609.6 mm (24 in.) above the top terminal landing.
- (3) Once the lift has stopped, the automatic stop device shall be manually reset. Therefore, this device shall be located on the top landing where the person resetting the device has a clear view of both the "up" and "down" runs of the lift; and it shall be impossible to reset from a step.

(4) Stop devices shall comply with the requirements found in the current adopted edition of ASME A90.1.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24457, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24457, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-24500 Scope. (1) These requirements apply to electric manlifts installed prior to January 1, 1999, in facilities in which agricultural products are stored, food products are processed, goods are manufactured, energy is generated, or similar industrial or agricultural processes are performed.

(2) Where a special purpose personnel elevator was installed after January 1, 1999, the conveyance shall comply with the requirements for a special purpose elevator found in the edition of ASME A17.1 or ((A17.1/B44)) A17.1/CSA B44 Section 5.7 that was in effect at the time.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24500, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24500, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24519 Hoistway and landing construction. (1) A hoistway shall be fully enclosed, or enclosed on all landings to a height of 1828.8 mm (72 in.) above the landing floor or 1828.8 mm (72 in.) above the highest working level or stair level adjacent to the hoistway.

(2) Perforated enclosures may be used where fire resistance is not required. However, such enclosures shall be constructed of at least No. 13 U.S. gauge steel wire, if a steel wire grill or expanded metal grill type, and have openings that reject a 25.4 mm (1 in.) diameter ball.

(3) Adequate lighting shall be provided at each landing and in the hoistway.

Note: For purposes of this section "adequate lighting" means 5 foot-candles.

(4) Emergency evacuation ladders when installed:

(a) Shall provide access to an emergency exit.

(b) Shall be located in a position so that in an emergency a person can safely transfer from the car platform to the ladder.

Note: Transfer is considered safe when a person can maintain 3 points of contact while making the transfer.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24519, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24522 Hoistway doors and gates. (1) Gates may be constructed of wood slat, steel wire grill, expanded metal or solid material provided that all openings reject a 50.8 mm (2 in.) diameter ball and resist a 250 lb. horizontal thrust.

(a) Steel wire and expanded metal gates shall be constructed of at least No. 13 U.S. gauge steel.

(b) Wood slat gates shall have slats at least 50.8 mm (2 in.) wide and (~~(1/2 in.)~~) 12.7 mm (0.5 in.) thick, nominal size.

(c) Solid material gates shall be constructed of at least (~~(1/8 in.)~~) 3.175 mm (0.125 in.) reinforced sheet steel or (~~(1/2 in.)~~) 12.7 mm (0.5 in.) plywood.

(2) Gates may be horizontal swinging, vertical or horizontal sliding or biparting types, and shall:

(a) Span the full width of the elevator car;

(b) Extend from 25.4 mm (1 in.) above the landing floor to at least 1828.8 mm (72 in.) above it;

(c) Not swing into the hoistway.

(3) Hoistway doors shall be closed before the car can leave the landing. Once the car leaves the landing, the door shall be latched so that it will not open when the elevator is not at the landing.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24522, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24525 Car enclosures and frames. Elevator cars shall be fully enclosed to the car height or to a height of at least 1981.2 mm (78 in.), whichever is greater.

(1) If constructed of solid materials, cars shall be capable of withstanding a horizontal thrust of 75 lbs. while deflecting no more than (~~(1/4 in.)~~) 6.35 mm (0.25 in.).

(2) If constructed of perforated materials, all openings shall be capable of rejecting at least a 25.4 mm (1 in.) diameter ball.

(3) Car frames shall be of substantial metal or wood construction.

(a) Metal frames shall have a safety factor of 4.

(b) Wood frames shall have a safety factor of 6.

(c) Wood frames shall be constructed with gussets and bolts secured with large washers, lock washers and nuts.

(4) Cars shall have platforms whose inside dimensions do not exceed 762 mm (30 in.) on each side (6.25 ft²).

(5) Cars shall have substantial protective tops. These tops:

(a) May have hinged front halves.

(b) Shall be made of No. 9 U.S. wire-gauge screen, No. 11 gauge expanded metal, No. 14 gauge sheet steel, or (~~(1/4 in.)~~) 6.35 mm (0.25 in.) or heavier plywood.

(c) If made of wire screen or metal with openings shall reject a (~~(1/2 in.)~~) 12.7 mm (0.5 in.) diameter ball.

(6) A properly working fire extinguisher shall be present in each car.

(7) A sign bearing the following information shall be posted in a conspicuous place within the car:

- (a) Total load limit in pounds;
- (b) Maximum capacity one or two persons where applicable;
- (c) "For authorized personnel use only."

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24525, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-24528 Car doors and gates. (1) All electric manlifts shall have car doors, except on fully enclosed hoistways equipped with hoistway gates and enclosed from the top of the hoistway opening to the ceiling on the landing side.

(2) Car doors shall be:

(a) Constructed of solid or perforated material capable of resisting a 75 lb. thrust without deflecting (~~(1/4 in.)~~) 6.35 mm (0.25 in.). If perforated material is used, it shall reject a 1 in. diameter ball.

(b) Biparting or otherwise horizontally swung provided the door swings within the elevator car.

(c) All car doors or gates equipped with an electric contact.

(d) An electrical and mechanical interlock provided when a safe means of self-evacuation (a ladder) is not provided.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24528, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24528, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24531 Counterweight enclosures, counterweight and fastenings. All counterweights shall be fully enclosed at landings or at the path of travel where inadvertent contact can occur.

(1) At the bottom of a counterweight enclosure, there shall be an inspection opening large enough to allow the inspection of cable fastenings, counterweight and buffer.

(2) Sectional rectangular shaped counterweights shall be secured by at least two, (~~(1/2 in.)~~) 12.7 mm (0.5 in.) mild steel bolts with lock nuts.

(3) Sectional round counterweights shall be fastened with a center bolt at least (~~(3/4 in.)~~) 19.05 mm (0.75 in.) in diameter and secured with a lock nut.

(4) All bolt eyes shall be welded closed.

(5) Cable fastening shall be by babbitted tapered elevator sockets or other acceptable methods. If cable clamps are used, a minimum of three cable clamps shall be provided. U-shaped clamps shall not be acceptable.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24531, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24534 Guide rails. Each elevator shall be equipped with at least 2 guide rails. Guide rails shall:

- (1) Extend at least 152.4 mm (6 in.) beyond the maximum travel distance of the car with the buffers compressed.
- (2) Be securely fastened to a vertical support for the full length of the elevator's travel.
- (3) Be constructed of vertical grain fir or steel:
 - (a) If constructed with vertical grain fir, the rails shall be at least (~~1 1/2 in. x 1 1/2 in.~~) 38.1 mm (1.5 in.) x 38.1 mm (1.5 in.) and not vary in thickness by more than (~~3/16 in.~~) 4.7752 mm (0.188 in.) on brake surfaces.
 - (b) If constructed of steel, it shall meet the requirements of subsections (4) and (5) of this section.
- (4) Be able to resist a 250 lb. horizontal thrust.
- (5) Be able to resist more than (~~1/2 in.~~) 12.7 mm (0.5 in.) total deflection when the car safety is applied.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24534, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

- WAC 296-96-24537 Suspension means.** (1) There shall be at least 2 hoisting ropes. Each rope shall be:
- (a) Made of a good grade of elevator traction wire rope;
 - (b) At least (~~3/8 in.~~) 9.525 mm (0.75 in.) in diameter and possessing a safety factor of 5;
 - (c) Fastened by babbitted tapered elevator sockets or other acceptable methods. If cable clamps are used, a minimum of 3 fist grip or equivalent clamps shall be provided. U-shaped clamps shall not be acceptable.
- (2) The car platform shall not be more than 152.4 mm (6 in.) above the top landing when the counterweight buffer is fully compressed. The counterweight shall be a minimum of (~~150~~) 152.4 mm (6 in.) from the deflector sheave when the car buffer is fully compressed.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24537, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24537, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-24543 Car safeties. All cars suspended or operated from overhead machinery shall be equipped with an approved car safety capable of stopping and holding the car while carrying its rated load.

(1) Car safeties shall be mechanically operated and not be affected by any interruptions in the electrical circuit.

(2) Car safeties and governor controlled safeties shall operate automatically and the control circuit shall be interrupted in the event the safeties set.

(3) All electric manlifts shall be equipped with an overspeed governor that shall not exceed 0.889 m/s (175 ft./min.) and shall de-energize the brake control and motor drive circuits simultaneously when the car safety mechanism is activated.

(4) Winding drum type machines shall have a manual-reset slack rope device that interrupts the drive motor and brake circuits.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24543, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24543, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-24553 Drive machines. (1) Electric manlifts shall be driven by approved-type units.

(a) On direct drive or approved worm gear driven type, a mechanically actuated, electrically released brake shall be installed on the driving unit.

(b) On V belt driven types, a minimum of 4 belts, (~~(1/2 in.)~~) 12.7 mm (0.5 in.) minimum size, shall be used to transmit power from the motor to the drive shaft and a mechanically activated, electrically released brake shall be installed on the final drive shaft.

(c) All winding drum machine type elevators shall be equipped with top and bottom final limit switches.

(2) Wherever practical, drive machines shall be installed on the top side of the supporting structure.

(3) All components of the driving mechanism and parts subject to stress involved in suspending the load or related equipment shall be designed to withstand 8 times the total weight to be suspended, including load, counterweight, car and cables.

(4) Gears shall be made of steel or equivalent material. Cast iron gears are prohibited.

(5) A working platform, with railings complying with the applicable requirements adopted according to chapter 49.17 RCW, shall be provided to allow for safely working on equipment.

(6) A light with a switch shall be located near the elevator driving machine or the machinery space.

(7) A means to lockout/tagout the manlift equipment shall be provided and located near the driving machine or machine space.

(8) The manlift machinery shall be protected from the weather.

(9) All sheaves shall be appropriately guarded per the requirements adopted according to chapter 49.17 RCW.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24553, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24553, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

- WAC 296-96-24560 Additional applicable requirements.** (1) Car speeds shall not exceed 0.635 m/s (125 ft./min.).
- (2) Alterations shall conform with the applicable requirements in WAC 296-96-24519 through 296-96-24557.
- (3) Electric manlift controls and disconnects shall be accessible and labeled.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24560, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24560, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

- WAC 296-96-24620 Landings and entrances.** (1) Every landing shall be protected on all sides other than the landing opening side with a standard guard rail and intermediate guard rail. All landings except the bottom landing shall have a toe board installed on all sides except the landing opening side.
- (2) All entrances shall be not less than 1981.2 mm (78 in.) in height and in no case may the width exceed the corresponding car dimensions.
- (3) All entrances shall be provided with an approved maze or with a hoistway gate which shall:
- (a) Be at least 914.4 mm (36 in.) in height;
 - (b) Extend downward to within 25.4 mm (1 in.) of the landing sill;
 - (c) Be of the self-closing type, designed to swing horizontally out from the hoistway and closing against a full jam stop;
 - (d) Be located within 101.6 mm (4 in.) of the edge of the landing sill;
 - (e) Have a "DANGER" sign conspicuously posted on the landing side of the hoistway gate; and
 - (f) Withstand a 250 lb. horizontal thrust.
- (4) An automatic safety device which will prevent the car from leaving the landing until manually released by the operator shall be installed at the bottom landing.
- (5) Adequate lighting shall be installed and operating at each landing.

Note: For the purpose of this section "adequate lighting" means 5 foot-candles.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24620, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24635 Guide rails. (1) There shall be a minimum of 2 opposing guide rails extending to a point 152.4 mm (6 in.) beyond the full height of travel of the car when the counterweight buffer is fully compressed.

(2) All rails shall be attached by bolts, lag screws or other approved methods to a vertical supporting member which shall not exceed (~~1/2 in.~~) 12.7 mm (0.5 in.) deflection with the application of a 250 lb. horizontal thrust at any point.

(3) Wood guide rails shall be at least (~~1 1/2 in. x 1 1/2 in.~~) 38.1 mm (1.5 in.) x 38.1 mm (1.5 in.) vertical grain fir or equivalent and shall not vary more than (~~3/16 in.~~) 4.7752 mm (0.188 in.) in thickness on the sides which the brakes contact. All joints shall be kept smooth and even.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24635, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24640 Buffers. (1) Spring buffers shall be installed below the car and counterweights.

(2) The maximum run-by of the car shall not exceed 203.2 mm (8 in.) above the top landing when the counterweight buffer spring is fully compressed.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24640, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24645 Car construction. (1) The car shall be built to the following specifications:

(a) The car platform shall be no greater than 762 mm (30 in.) on either side (6.25 ft²);

(b) The car frame and platform shall be of steel or sound seasoned wood construction and be designed with a safety factor of not less than 4 for metal and 6 for wood, based on a maximum capacity of 250 lbs.;

(c) All frame members shall be securely bolted, riveted or welded and braced. If bolted, lock washers or lock nuts shall be used;

(d) Where wooden frame members are bolted, large washers or metal plates shall be used to minimize the possibility of splitting or cracking the wood.

(2) The sides of the car shall be enclosed by a minimum of 2 safety guard rails with the top rail not less than 914.4 m (36 in.) nor more than 1066.8 mm (42 in.) from the car floor. Rails shall be capable of sustaining a horizontal thrust of 250 lbs. If solid materi-

al is used, it shall be smooth surfaced and not less than ((1/2-in.)) 12.7 mm (0.5 in.) thickness, if wood; not less than 16 gauge thickness, if steel; and shall be constructed from the car floor to a height of not less than 0.9144 m (3 ft.).

(a) Where the hoistway is not enclosed on the entrance side of the car, a self-locking or drop bar gate shall be provided. The car gate may be of the folding type, horizontally swung, provided it swings into the car enclosure. Drop bar gates shall be of two bar construction, parallelogram type, and conform to requirements specified for car guard rails.

(b) The car gate shall drop into locking slots or be provided with a positive locking type latch capable of withstanding a 250 lb. horizontal thrust.

(3) Every car shall have a substantial protective top. The front half may be hinged. The protective top shall be made from No. 9 U.S. wire gauge screen, No. 11 gauge expanded metal, No. 14 gauge sheet steel, ((3/4-in.)) 19.05 mm (0.75 in.) or heavier plywood. If made of wire screen or metal, the openings shall reject a ((1/2-in.)) 12.7 mm (0.5 in.) diameter ball.

(4) Every car shall have a proper rack to hold the balance weights. Weights shall be contained in the proper rack when the car is in motion.

(5) A sign bearing the following information shall be conspicuously posted within the car:

- (a) Total load limit in pounds;
- (b) "Maximum capacity one person"; and
- (c) "For authorized personnel use only."

(6) Every car shall be equipped with a spring loaded foot brake which:

- (a) Operates independently of the car safeties;
- (b) Operates in both directions and will stop and hold the car and its load; and
- (c) Locks the car in its position automatically whenever the operator releases the pressure on the foot pedal.

(7) Every car shall be equipped with a car safety device which:

- (a) Applies to the sides of the main guide rails; and
- (b) Stops and holds the car and its load immediately when the hoisting rope breaks.

(8) Every car shall have a minimum clearance of 78 in. from the top of the car platform to the bottom edge of the crosshead or any other obstruction.

(9) A tool box with minimum dimensions of 101.6 mm (4 in.) long x 76.2 mm (3 in.) deep shall be provided and firmly attached to the car structure.

(10) A fire extinguisher in proper working condition shall be available in the car.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24645, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24650 Counterweights. (1) The assembly of sectional counterweights shall conform to the following requirements:

(a) Rectangular counterweights shall be held together by at least 2 tie rods (~~(1/2 in.)~~) 12.7 mm (0.5 in.) in diameter fastened with lock washers and double nuts or other approved means;

(b) One (~~(3/4 in.)~~) 19.05 mm (0.75 in.) rod may be used to hold the sections of a round counterweight together. Any additional sections or weights shall be secured by an approved means.

(2) The eye bolt for the rope hitch shall be attached to the counterweight in a manner that will prevent the eye bolt from coming loose. The eye of eye bolts shall be welded to prevent it from opening.

(3) Every counterweight runway shall be enclosed with substantial unperforated material for its full distance of travel. Inspection openings shall be provided at either the top or bottom of the counterweight runway. These openings shall be substantially covered at all times except when actually being used for inspection of counterweight fastenings.

(4) Workers shall load the counterweight for the proper balance of the heaviest person using the elevator and others shall use compensating weights, which shall be available to maintain a balance.

(5) On elevators with a travel of 22.86 m (75 ft.) or more, a compensation chain or cable shall be installed to maintain the proper balance of the counterweight to the car and load in all positions.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24650, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24655 Sheaves and supporting members. (1) The minimum sheave diameter shall be 40 times the diameter of the rope used. For example, a (~~(3/8 in.)~~) 9.525 mm (0.375 in.) rope requires a 381 mm (15 in.) diameter sheave.

(2) The overhead supporting members shall be designed, based upon impact loads, with a safety factor of:

- (a) 9 If wood; and
- (b) 5 If steel.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24655, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24660 Suspension means. (1) Hoisting ropes shall be of good grade traction elevator wire rope and shall:

- (a) Be not less than (~~(3/8 in.)~~) 9.525 mm (0.375 in.) in diameter.
- (b) Provide a safety factor of 5 based on the maximum weight supported.
- (c) Be of sufficient length to prevent the counterweight from striking the overhead structure when the car is at the bottom, and

prevent the car from striking the overhead before the counterweight is at its lower limit of travel.

(2) Cable fastenings shall be by babbitted tapered elevator sockets or other acceptable methods approved by the department. If cable clamps are used, a minimum of 3 cable clamps shall be provided. U-shaped clamps shall not be acceptable.

Where passed around a metal or other object less than 3 times the diameter of the cable, a thimble of the correct size shall be inserted in the eye.

(3) Approved sockets or fittings with the wire properly turned back and babbitted shall be used in place of clamps noted in subsection ~~((1)-(d))~~ (2) of this section.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24660, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24665 Operating ropes. The operating rope shall be of soft hemp, nylon or cotton at least ~~((3/4 in.))~~ 19.05 mm (0.75 in.) in diameter. It shall be securely fastened at each end and shall be in proper vertical alignment to prevent bending or cutting where it passes through the openings in the platform or the protective top of the car.

[Statutory Authority: Chapter 70.87 RCW. WSR 18-18-070, § 296-96-24665, filed 8/31/18, effective 10/1/18.]

AMENDATORY SECTION (Amending WSR 21-18-096, filed 8/31/21, effective 10/1/21)

WAC 296-96-24670 Hoistway requirements. (1) Escape ladders shall be installed and shall extend the full length of the hoistway.

(a) Ladders shall be installed in a manner to provide access to an emergency exit and shall be located in a position so that in an emergency a person can safely transfer from the car platform to the ladder.

Note: Transfer is considered safe when a person can maintain 3 points of contact while making the transfer.

(b) An "IMPAIRED CLEARANCE" sign shall be posted at the bottom of a ladder when the face of the ladder is less than 762 mm (30 in.) from any structure.

(2) The minimum clearance between a car side and the hoistway enclosure is 25.4 mm (1 in.).

(3) The clearance between a car platform and a landing sill shall be at least ~~((1/2 in.))~~ 12.7 mm (0.5 in.) but not more than ~~((1 1/2 in))~~ 38.1 mm (1.5 in.).

(4) Adequate lighting shall be installed and operating in the path of travel.

Note: For the purpose of this section, adequate lighting shall be 5 fc.

[Statutory Authority: Chapter 70.87 RCW. WSR 21-18-096, § 296-96-24670, filed 8/31/21, effective 10/1/21; WSR 18-18-070, § 296-96-24670, filed 8/31/18, effective 10/1/18.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|------------------|--|
| WAC 296-96-02640 | Inclined commercial stairway chair lifts. |
| WAC 296-96-18010 | Definition. |
| WAC 296-96-18011 | Minimum maintenance requirements. |
| WAC 296-96-18020 | Car and platform enclosures. |
| WAC 296-96-18030 | Electrical wiring requirements. |
| WAC 296-96-18040 | Brakes. |
| WAC 296-96-18050 | Stop switches and protective devices. |
| WAC 296-96-18060 | Reshackling and refastening of hoisting cables. |
| WAC 296-96-18070 | Hoistway gates and doors. |
| WAC 296-96-18080 | Hoistway enclosures. |
| WAC 296-96-20010 | Minimum maintenance requirements. |
| WAC 296-96-24700 | Scope. |
| WAC 296-96-24703 | Minimum maintenance requirements. |
| WAC 296-96-24706 | Machine rooms and machinery space. |
| WAC 296-96-24709 | Equipment in machine rooms/spaces. |
| WAC 296-96-24712 | Electrical wiring, pipes and ducts in hoistways and machine rooms. |
| WAC 296-96-24715 | Pits. |
| WAC 296-96-24718 | Hoistway door openings. |
| WAC 296-96-24721 | Hoistway door installation. |
| WAC 296-96-24724 | Hoistway door clearances. |
| WAC 296-96-24727 | Hoistway door locking devices. |
| WAC 296-96-24730 | Protection of space beneath hoistway. |
| WAC 296-96-24733 | Car doors and gates. |
| WAC 296-96-24736 | Car enclosure. |
| WAC 296-96-24739 | Construction of car frames and platforms. |
| WAC 296-96-24742 | Connecting car frames to platforms. |
| WAC 296-96-24745 | Capacity. |
| WAC 296-96-24748 | Driving machines. |
| WAC 296-96-24751 | Material and grooving for sheaves and drums. |
| WAC 296-96-24754 | Brakes. |

WAC 296-96-24757 Terminal stopping devices.
WAC 296-96-24760 Suspension means.
WAC 296-96-24765 Hydraulic casket lifts.
WAC 296-96-24770 Valves, supply piping and fittings.
WAC 296-96-24775 Stopping devices.
WAC 296-96-24780 Operating devices.

WSR 23-10-085
PROPOSED RULES
HEALTH CARE AUTHORITY
[Filed May 3, 2023, 7:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-06-007.

Title of Rule and Other Identifying Information: WAC 182-530-5000
Bill requirements—Pharmacy claim payment.

Hearing Location(s): On June 6, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_78IrW6mRRYWRuW7SIXs5IQ. 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: June 7, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by June 6, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.larson@hca.wa.gov, by May 19, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending this rule to clarify that signature for proof of delivery can be provided by either the client, the client's designee, or the provider. Currently, the rule does not include the "client's designee." This revision will bring the rule in alignment with HCA's current practice.

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: None.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Charity Harris, P.O. Box 55087, Olympia, WA 98504-5087, 360-725-1301.

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.

Scope of exemption for rule proposal:

Is not exempt.

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 rule is being revised to add client designee as an approved signature for proof of delivery. This change does not impose a more-than-minor cost.

May 3, 2023
Wendy Barcus
Rules Coordinator

OTS-4457.1

AMENDATORY SECTION (Amending WSR 21-05-043, filed 2/11/21, effective 3/14/21)

WAC 182-530-5000 Billing requirements—Pharmacy claim payment.

(1) When billing the medicaid agency for pharmacy services, providers must:

- (a) Use the appropriate agency claim form or electronic billing specifications;
- (b) Include the actual (~~eleven-digit~~) 11-digit national drug code (NDC) number of the product dispensed from a rebate eligible manufacturer;
- (c) Bill the agency using metric decimal quantities which is the National Council for Prescription Drug Programs (NCPDP) billing unit standard;
- (d) Meet the general provider documentation and record retention requirements in WAC 182-502-0020; and
- (e) Maintain proof of delivery receipts.
 - (i) When a provider delivers an item directly to the client or the client's (~~authorized representative~~) designee, the provider must be able to furnish proof of delivery, including the signature of either the client, the client's designee, or the provider, the client's name, and a detailed description of the item or items delivered.
 - (ii) When a provider mails an item to the client, the provider must be able to furnish proof of delivery including a mail log.
 - (iii) When a provider uses a delivery or shipping service to deliver items, the provider must be able to furnish proof of delivery and it must:
 - (A) Include the delivery service tracking slip with the client's name or a reference to the client's package or packages; the delivery service package identification number; and the delivery address.
 - (B) Include the supplier's shipping invoice, with the client's name; the shipping service package identification number; and a detailed description.
 - (iv) Make proof of delivery receipts available to the agency upon request.

(2) When billing drugs under the expedited authorization process, providers must insert the authorization number, which includes the corresponding criteria code or codes in the appropriate data field on the drug claim.

(3) Pharmacy services for clients on restriction under WAC 182-501-0135 must be prescribed by the client's primary care provider and are paid only to the client's primary pharmacy, except in cases of:

- (a) Emergency;
- (b) Family planning services; or
- (c) Services properly referred from the client's assigned pharmacy or physician/ARNP.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-05-043, § 182-530-5000, filed 2/11/21, effective 3/14/21; WSR 16-01-046, § 182-530-5000, filed 12/9/15, effective 1/9/16. WSR 11-14-075, recodified as § 182-530-5000, filed 6/30/11, effective 7/1/11. Statutory Au-

thority: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700. WSR
07-20-049, § 388-530-5000, filed 9/26/07, effective 11/1/07.]

WSR 23-10-086

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed May 3, 2023, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-22-032.

Title of Rule and Other Identifying Information: WAC 458-20-19402
Single factor receipts apportionment—Generally.

Hearing Location(s): On June 6, 2023, at 11:00 a.m. This meeting will be conducted over the internet/telephone. Please contact Cathy Holder at CathyH@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: June 16, 2023.

Submit Written Comments to: Adam Becker, P.O. Box 47453, Olympia, WA 98504-7453, email adamb@dor.wa.gov, fax 360-534-1606, 360-534-1574, by June 9, 2023.

Assistance for Persons with Disabilities: Contact Julie King, phone 360-704-5733, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to update Rule 19402 to clarify the apportionment analysis and add additional examples.

Reasons Supporting Proposal: Since amending Rule 19402 in 2015 to recognize section 305 of SSB 6333 (chapter 97, Laws of 2014), the department of revenue (department) has continued to receive public comments requesting additional guidance on Part 3 "How to Attribute Receipts." Most comments are with regard to subsection (303)(c), on services relating to the customer's business activities. The department is therefore incorporating interim guidance and adding examples to the rule based on stakeholder feedback.

Statutory Authority for Adoption: RCW 82.01.060, 82.32.300.

Statute Being Implemented: RCW 82.04.462.

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: None.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Adam Becker, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1574; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1615.

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.

Scope of exemption for rule proposal:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-minor costs on businesses, as it does not propose any new requirements not already provided for in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in statute.

May 3, 2023

Atif Aziz

OTS-3536.3

AMENDATORY SECTION (Amending WSR 15-04-004, filed 1/22/15, effective 2/22/15)

WAC 458-20-19402 Single factor receipts apportionment—General-ly.

PART 1. INTRODUCTION.

(101) **General.** RCW 82.04.462 establishes the ~~((apportionment))~~ method for ~~((businesses engaged in apportionable activities and that have nexus with Washington for))~~ determining the portion of a person's apportionable income that is derived from business activities performed within Washington and subject to business and occupation (B&O) tax ((liability incurred)) for periods after May 31, 2010. The express purpose of the ~~((change in the law was))~~ apportionment framework set out in RCW 82.04.462 is to require businesses that "((earn(ing)) earn significant income from Washington residents from providing services" to "pay their fair share of the cost of services that this state renders and the infrastructure it provides." Section 101, chapter 23, 1st special session, 2010.

(102) **Guide to this rule.**

(a) This rule is divided into six parts, as follows:

1. Introduction.
2. Overview of single factor receipts apportionment.
3. How to attribute receipts.
4. Receipts factor.
5. How to determine Washington taxable income.
6. Reporting instructions.

(b) (i) Examples included in this rule identify a number of facts and then state a conclusion; they should be used only as a general guide. The tax results of all situations must be determined after a review of all the relevant facts and circumstances.

(ii) The examples in this rule assume all gross income received by the taxpayer is from engaging in apportionable activities.

(iii) When an example uses a particular reasonable method of proportionally attributing the benefit of a service, this does not preclude the existence of other reasonable methods of proportionally attributing the benefit of a service depending on the specific facts and circumstances of a taxpayer's situation.

(103) **Scope of rule.** This rule applies to the apportionment of income from engaging in apportionable activities ~~((as defined in WAC 458-20-19401)),~~ except:

(a) To the apportionment of income received by financial institutions and taxable under RCW 82.04.290 ~~((, which is governed by WAC 458-20-19404));~~ and

(b) To the attribution of royalty income from granting the right to use intangible property ~~((, which is governed by WAC 458-20-19403)).~~

(104) **Separate accounting and cost apportionment.** ~~((The apportionment method explained in this rule replaces the previously allowed~~

~~separate accounting and cost apportionment methods.))~~ Separate accounting and cost apportionment methods are not authorized for periods after May 31, 2010.

(105) **Other rules.** Taxpayers may also find helpful information in the following rules:

(a) WAC 458-20-19401 (~~(Minimum)~~) **Substantial nexus** (~~(thresholds for apportionable activities)~~). This rule (~~(describes minimum nexus thresholds applicable to apportionable activities that are effective after May 31, 2010)~~) explains the standards for substantial nexus in Washington beginning June 1, 2010.

(b) WAC 458-20-19403 **Royalty receipts attribution.** This rule describes the attribution of royalty income for the purposes of single factor receipts apportionment (~~(and applies only to tax liability incurred)~~) for periods after May 31, 2010.

(c) WAC ~~458-20-19404A and~~ 458-20-19404 **Single factor receipts apportionment—Financial institutions.** (~~(This)~~) These rules describe (~~(s)~~) the application of single factor receipts apportionment to certain income of financial institutions (~~(and applies only to)~~), for tax liability incurred (~~(after May 31, 2010.~~

~~(d) WAC 458-20-194 **Doing business inside and outside the state.** This rule describes separate accounting and cost apportionment and applies only to tax liability incurred from January 1, 2006, through May 31, 2010.~~

~~(e) WAC 458-20-14601 **Financial institutions—Income apportionment.** This rule describes the apportionment of income for financial institutions for tax liability incurred prior to June 1, 2010)) between June 1, 2010, and December 31, 2015, and on or after January 1, 2016, respectively.~~

(106) **Definitions.** The following definitions apply to this rule:

(a) **"Apportionable activities"** has the same meaning as used in WAC 458-20-19401 Minimum nexus thresholds for apportionable activities.

(b) **"Apportionable income"** means apportionable receipts less the deductions allowable under chapter 82.04 RCW.

(c) **"Apportionable receipts"** means gross income of the business from engaging in apportionable activities, including income received from apportionable activities attributed to locations outside this state. "Apportionable receipts" does not include amounts that are exempt under chapter 82.04 RCW.

(d) **"Business activities tax"** means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. (~~(In the case of sole proprietorships and pass-through entities,))~~ The term also includes personal income taxes or corporate income taxes if the gross income from apportionable activities is included in the gross income subject to the personal income tax or corporate income tax, as the case may be. The term "business activities tax" does not include retail sales tax, use tax, or similar transaction taxes, imposed on the sale or acquisition of goods or services, whether or not (~~(named))~~ labeled as a gross receipts tax or a tax imposed on the privilege of doing business.

(e) **"Customer"** means a person or entity to whom the taxpayer makes a sale, grants the right to use intangible property, or renders services or from whom the taxpayer otherwise directly or indirectly receives gross income of the business.

(i) If the taxpayer (~~(performs)~~) engages in apportionable (~~(serv-~~
~~ices)~~) activities for the benefit of a third party, the term "customer" means the third-party beneficiary.

Example 1. Assume a parent purchases apportionable dental services for their child. The child is the customer for the purpose of determining where the benefit is received.

(ii) The department will consider the terms of the contract and all other books and records as a whole to determine whether a "third-party beneficiary" relationship exists. A third-party beneficiary exists if the contracting parties intend that the taxpayer will assume a direct obligation to the intended beneficiary at the time they enter into a contract. This element of "intent" is met if performance under the contract would necessarily and directly benefit the third party.

(iii) Where the taxpayer does not render services under a contract or otherwise does not provide the department with a contract, the department will proceed, in such manner as it may deem best, to obtain facts and information to identify the customer.

(f) **"Reasonable method of proportionally attributing"** means a method of determining where the benefit of an activity is received and where the receipts are attributed that is uniform, consistent, fair, and accurately reflects the market (~~(, and does not distort the taxpayer's market)~~).

(g) **"State"** means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

(h) (i) **"Taxable in another state"** means either:

(A) The taxpayer is subject to a business activities tax by another state on the taxpayer's income received from engaging in apportionable activity; or

(B) The taxpayer is not subject to a business activities tax by another state on the taxpayer's income received from engaging in apportionable activity, but the taxpayer meets the substantial nexus thresholds described in WAC 458-20-19401 for that state.

(ii) The determination of whether a taxpayer is taxable in a foreign country or political subdivision of a foreign country is made at the country or political subdivision level.

Example 2. Assume Taxpayer A is subject to a business activity tax in State X of Mexico (e.g., Taxpayer pays tax to State X), but nowhere else in Mexico. Also, assume that Taxpayer A is not subject to any national business activity tax in Mexico and does not meet the substantial nexus thresholds described in WAC 458-20-19401 for Mexico as a whole. In this case, Taxpayer is "taxable in another state," namely the Mexican state of State X, but not taxable in any other portion or any other state of Mexico.

Example 3. Assume Taxpayer B is not subject to any business activity taxes in Mexico, but satisfies the substantial nexus thresholds described in WAC 458-20-19401 for Mexico as a whole. Taxpayer B is "taxable in (all) another state," namely the foreign country of Mexico.

PART 2. OVERVIEW OF SINGLE FACTOR RECEIPTS APPORTIONMENT.

(201) **Single factor receipts apportionment generally.** (~~(Except as provided in WAC 458-20-19404 persons earning apportionable income who)~~)

(a) Persons, other than financial institutions, that have substantial nexus with Washington as specified in WAC 458-20-19401 and

~~((who are))~~ earn apportionable income that is also taxable in another state must use the apportionment ~~((method provided))~~ formula described in this rule to determine their taxable income from apportionable activities for B&O tax purposes. The apportionment formula that applies to financial institutions is described in WAC 458-20-19404 and 458-20-19404A.

(b) Taxable income is determined by multiplying apportionable income from each apportionable activity by the receipts factor for that apportionable activity.

This formula is:

$$\text{(Taxable income)} = \text{(Apportionable income)} \times \text{(Receipts factor)}$$

See Part 4 of this rule for a discussion of the receipts factor.

(202) **Tax year.** The receipts factor applies to each tax year. A tax year is the calendar year, unless the taxpayer has specific permission from the department to use another period. (RCW 82.32.270.) For the purposes of this rule, "tax year" and "calendar year" have the same meaning.

PART 3. HOW TO ATTRIBUTE RECEIPTS.

(301) **Attribution of receipts generally.** Except as specifically provided for in WAC 458-20-19403 for the attribution of apportionable royalty receipts, this Part 3 explains how to attribute apportionable receipts (the attribution method). Receipts are attributed to states based on a cascading method or series of steps. ~~((The department expects that most taxpayers will attribute apportionable receipts based on (a)(i) of this subsection because the department believes that either the taxpayer will know where the benefit is actually received or a "reasonable method of proportionally attributing receipts" will generally be available. These))~~ The steps in this cascading series are:

(a) Gross income of the business is attributed to a specific state(s) where the customer received the benefit of the taxpayer's service (see subsections ~~((302))~~ (303) through (304) of this rule for an explanation and examples of the benefit of the service) ~~((7))~~:

(i) If a taxpayer can reasonably determine the amount of a specific apportionable receipt that relates to a specific benefit of the services received in a state, that specific apportionable receipt is attributable to the state in which the benefit is received (see Example 12 in this rule). ~~((When))~~

(ii) If a taxpayer is unable to attribute an apportionable receipt under (a)(i) of this subsection, and a customer receives the benefit of the taxpayer's services in this and one or more other states and the amount of gross income of the business that was received by the taxpayer in return for the services received by the customer in this state can be reasonably determined by the taxpayer, such amount of gross income must be attributed to this state. This may be shown by application of a reasonable method of proportionally attributing the benefit among states. The result determines the receipts attributed to each state. Under certain situations, the use of data based on ~~((an))~~ another attribution method specified in ~~((b) through (f))~~ subsection (301)(c) through (g) of this ~~((subsection))~~ rule may also be a reasonable method of proportionally attributing receipts among states (see Examples ~~((4 and 5 below))~~ 10 and 17 in this rule).

~~((ii))~~ (b) If a taxpayer is unable to separately determine or use a reasonable method of proportionally attributing the benefit of

the services in specific states under subsection (301)(a) of this rule, and the customer received the benefit of the service in multiple states, the apportionable receipt is attributed to the state in which the customer primarily received the benefit of the service. Primarily means, in this case, more than 50 percent.

(c) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a) or (b) of this rule, the apportionable receipt must be attributed to the state from which the customer ordered the service. Subsection (306) of this rule explains the meaning of "unable to attribute."

(d) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), or (c) of this rule, the apportionable receipt must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

(e) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), (c), or (d) of this rule, the apportionable receipt must be attributed to the state from which the customer sends payment to the taxpayer.

(f) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), (c), (d), or (e) of this rule, the apportionable receipt must be attributed to the state where the customer is located as indicated by the customer's address:

(i) Shown in the taxpayer's business records maintained in the regular course of business; or

(ii) Obtained during consummation of the sale or the negotiation of the contract, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

(g) If the taxpayer is unable to attribute an apportionable receipt under subsection (301)(a), (b), (c), (d), (e), or (f) of this rule, the apportionable receipt must be attributed to the commercial domicile of the taxpayer.

(302) Application of cascading steps.

(a) The department expects that most taxpayers will be able to attribute apportionable receipts based on subsection (301)(a) of this rule because the taxpayer will either have access to books and records that contain sufficient information from which to determine where the customer actually received the benefit of the taxpayer's service, or will be able to use a "reasonable method of proportionally attributing receipts" that fairly apportions where the customer received the benefit of the taxpayer's service.

(b) If a taxpayer is affiliated with another entity that has information indicating where the customer received the benefit of the taxpayer's service, the department will presume, unless the facts indicate otherwise, that the taxpayer is able to access that information from the affiliated entity (see Example 20 in this rule).

(c)(i) The taxpayer may not use an attribution method that (distorts the apportionment of) unfairly attributes the taxpayer's apportionable receipts.

(302) Examples. Examples included in this rule identify a number of facts and then state a conclusion; they should be used only as a general guide. The tax results of all situations must be determined after a review of all the facts and circumstances. The examples in this rule assume all gross income received by the taxpayer is from en-

gaging in apportionable activities. Unless otherwise stated, the examples do not apply to tax liability prior to June 1, 2010.

When an example states that a particular attribution method is a reasonable method of proportionally attributing the benefit of a service, this does not preclude the existence of other reasonable methods of proportionally attributing the benefit depending on the specific facts and circumstances of a taxpayer's situation.)

(ii) A taxpayer that has Washington apportionable receipts must keep, and provide upon request from the department, all suitable books and records that are necessary to demonstrate that the attribution method used fairly apportions the taxpayer's apportionable receipts.

(d) Except as otherwise provided in this rule, the taxpayer must use the same attribution method for all apportionable receipts in a tax year from the same service.

Example 4. Engineering Co. negotiates with Phone Manufacturer 1 and Phone Manufacturer 2 to provide design services for both manufacturers' upcoming lines of cell phones. Engineering Co. must use the same attribution method for its apportionable receipts from Phone Manufacturer 1 and Phone Manufacturer 2 for design services, because Engineering Co. is providing the same service to both customers.

Engineering Co. separately charges Phone Manufacturer 1 to solicit sales of Phone Manufacturer 1's phones on a commissioned sales basis. Engineering Co. would separately determine the attribution methods for its apportionable receipts from design services and commissioned sales for Phone Manufacturer 1, even if both services are taxable under the same B&O tax classification, because the design services and commissioned sales are separate services.

Example ((4)) 5. Assume Law Firm has thousands of charges to clients((-)), and that Law Firm can show it is not commercially reasonable for Law Firm to track each charge to each client to determine where the benefit related to each service is received. Assume the scope of Law Firm's practice is such that it is reasonable to assume that the benefits of Law Firm's services are received at the location of the customer as reflected by the customer's billing address. Under these circumstances, Law Firm can use the billing addresses of each client as a reasonable method of proportionally attributing the benefit of its services.

Example ((5)) 6. Same facts as Example ((4)) 5 except, Law Firm has a ((single)) client that represents a ((statistically)) significant portion of its revenue ((and whose)) from legal services (five percent for purposes of this example). Law Firm has records substantiating that the billing address of this client is unrelated to any of the services provided. In this case, using the billing address of this client would not fairly relate to where the customer received the benefit of the services. Using the billing address for this client to determine where the benefit is received would ((significantly distort)) not fairly represent the apportionment of Law Firm's receipts. Therefore, Law Firm would need to evaluate the specific services provided to that client to determine where the benefits of those services are received ((and)). Similarly, use of billing address would not be a reasonable method of proportionally attributing the benefit of Law Firm's services for any other clients representing five percent or more of Law Firm's revenue from legal services. Law Firm would need to evaluate the specific services provided to these clients to determine where the benefits are received. However, Law Firm may use billing addresses to attribute the income received from other clients represent-

ing less than five percent of Law Firm's legal service revenue if appropriate.

Example ((6)) 7. Assume Taxpayer R attributes an apportionable receipt based on its customer's billing address, using ~~((e))~~ subsection (301)(d) of this ~~(subsection)~~ rule, and the billing address is a P.O. Box located in another state. Taxpayer R also knows that mail delivered to this P.O. Box is automatically forwarded to the customer's actual location. In this case, use of the billing address is not allowed because it would ~~((distort the apportionment of))~~ not fairly apportion Taxpayer R's receipts.

(303) **Benefit of the service explained.** The first two cascading steps (subsection (301)(a) ~~((i))~~ and ~~((ii))~~ (b) of this rule) used to attribute apportionable receipts to a state are based on where the taxpayer's customer receives the benefit of the service. This subsection explains the framework for determining where the customer receives the benefit of a service ~~((is received))~~.

(a) (i) If the taxpayer's service relates to real property, then the customer receives the benefit ((is received)) where the real property is located.

(ii) The following is a nonexclusive list of services that relate to real property:

- ~~((i))~~ (A) Architectural;
- ~~((ii))~~ (B) Surveying;
- ~~((iii))~~ (C) Janitorial;
- ~~((iv))~~ (D) Security;
- ~~((v))~~ (E) Appraisals; and
- ~~((vi))~~ (F) Real estate brokerage.

~~(b) ((If the taxpayer's service relates to tangible personal property, then the benefit is received where the tangible personal property is located or intended/expected to be located.~~

~~(i) Tangible personal property is generally treated as located where the place of principal use occurs. If the tangible personal property is subject to state licensing (e.g., motor vehicles), the principal place of use is presumed to be where the property is licensed; or~~

~~(ii) If the tangible personal property will be created or delivered in the future, the principal place of use is where it is expected to be used or delivered.~~

~~(iii) The following is a nonexclusive list of services that relate to tangible personal property:~~

- ~~(A) Designing specific/unique tangible personal property;~~
- ~~(B) Appraisals;~~
- ~~(C) Inspections of the tangible personal property;~~
- ~~(D) Testing of the tangible personal property;~~
- ~~(E) Veterinary services; and~~
- ~~(F) Commission sales of tangible personal property.)~~ (Reserved.)

~~(c) If ((the taxpayer's service does not relate to real or tangible personal property,))~~ subsection (303)(a) of this rule does not apply, the taxpayer's service is provided to a customer engaged in business, and the service relates to the customer's business activities, then the customer receives the benefit ((is received)) of the service where the customer's related business activities occur.

A customer's related business activities will generally occur either in the customer's market or at the customer's business location(s).

(i) Customer's market. The determination of a customer's market depends on the customer's facts and circumstances. The customer's re-

lated business activities occur in the customer's market if the taxpayer's service is:

(A) Promoting the customer's products (goods and services);

(B) Engaging in or completing sales of the customer's products;

(C) Obtaining or facilitating payment of amounts owed to the customer from the sale of its products; or

(D) Establishing or maintaining the customer's market. In determining whether a service is establishing or maintaining the customer's market, the department will consider the nonexclusive list of activities provided by WAC 458-20-193 (102) (d) (vii), but for purposes of this consideration, will replace any references to "this state" or "Washington" with "any state."

(ii) Customer's business location(s). The customer's related business activities occur at the customer's business location(s) if subsection (303) (c) (i) of this rule does not apply.

(iii) The customer's business location(s) is determined as follows:

(A) If the taxpayer's service requires the customer to be physically present, the customer's business location(s) is where the customer is located when the taxpayer provides the service.

(B) If the taxpayer's service does not require the customer to be physically present, and the taxpayer's service relates to a specific, known business location(s), the customer's business location(s) is that specific, known business location(s).

(C) If subsection (303) (c) (iv) (A) and (B) of this rule do not apply, then the customer's business location is the customer's principal place of business or commercial domicile.

(iv) The following is a nonexclusive list of business-related services:

~~((i))~~ (A) Designing, appraisal, inspection, or testing of tangible personal property;

~~((ii))~~ (B) Developing a business management plan;

~~((iii))~~ (C) Commission sales (other than sales of real ~~(or tangible personal)~~ property);

~~((iii))~~ (D) Debt collection services;

~~((iv))~~ (E) Legal and accounting services not specific to real ~~(or tangible personal)~~ property; and

~~((v))~~ (F) Advertising services ~~(and~~

~~(vi) Theater presentations).~~

(d) If ~~(the taxpayer's service does not relate to real or tangible personal property, is either provided to a customer not engaged in business or unrelated to the customer's business activities; and)~~ subsection (303) (a) and (c) of this rule do not apply, then the location(s) where the customer receives the benefit of the service is determined as follows:

(i) If the taxpayer's service requires the customer to be physically present, then the customer receives the benefit ~~(is received)~~ of the service where the customer is located when the taxpayer performs the service ~~(is performed)~~. The following is a nonexclusive list of services that require the customer to be physically present:

(A) Medical examinations;

(B) Hospital stays;

(C) Haircuts; and

(D) Massage services.

(ii) If the taxpayer's service does not require the customer to be physically present, and the taxpayer's service relates to a specific, known location(s), then the customer receives the benefit ~~(is re-~~

received)) at ((those)) that location(s). The following is a nonexclusive list of services related to a specific, known location(s):

- (A) Wedding planning;
- (B) Receptions;
- (C) Party planning;
- (D) Travel agent and tour operator services (see Example 40); and
- (E) Preparing ((and/or)) or filing state and local tax returns (see Example 39).

(iii) If subsection (303)(d)(i) and (ii) of this ((subsection)) rule do not apply, the customer receives the benefit of the service ((is received)) where the customer resides. The following is a nonexclusive list of services whose benefit is received at the customer's residence:

- (A) Drafting a will (see Example 41);
- (B) Preparing ((and/or)) or filing federal tax returns (see Examples 39 and 42);
- (C) Selling investments; and
- (D) Blood tests (not blood drawing).

(e) **Special rule for extension of credit.** See subsection (305) of this rule for special rules attributing income related to loans (secured and unsecured) and credit cards that is received by persons who are not financial institutions as defined in WAC 458-20-19404.

(304) Examples of the application of the benefit of service analysis and reasonable methods of proportionally attributing receipts.

(a) **Services related to real property:**

Example ((7)) 8. Architect drafts plans for a building to be built in Washington. Architect's services relate to real property, which is located in Washington, therefore the customer receives the benefit of that service in Washington at the location of the real property. Architect's receipts for this service are solely attributed to Washington because the customer receives the entire benefit ((is received)) in Washington.

Example ((8)) 9. Franchisor hires Taxpayer, an architect, to create a design of a standardized building that will be used at four locations in Washington and two locations in Oregon. Taxpayer's services relate to real property at those six locations, therefore the customer receives the benefit of the service at the four Washington locations and the two Oregon locations. Taxpayer will attribute 2/3 (4 of 6 sites) of the receipts for this service to Washington and 1/3 (2 of 6 sites) of the receipts to Oregon.

Example ((9)) 10. Assume the same facts as Example ((8)) 9 except Franchisor will use the same design in all 50 states for all its franchisee's locations. Taxpayer and Franchisor do not know at the time the service is provided (and cannot reasonably estimate) how many franchise locations will exist in each state. ((Therefore,)) If there is no reasonable means of proportionally attributing receipts at the time the services are performed, and it is clear that no state will have a majority of the franchise locations ((Accordingly)), the apportionable receipts must be attributed following the steps in subsection (301) ((b) through (f)) (c) through (g) of this rule.

Example ((10)) 11. Real estate broker located in Florida receives a commission for arranging the sale of real property located in Washington. The real estate broker's service is related to the real property, therefore the customer receives the benefit ((is received)) in Washington, where the real property is located, and the commission income is attributed to Washington.

(b) ~~((Services related to tangible personal property))~~ **Reserved.**

~~((Example 11. Big Manufacturing hires an engineer to design a tool that will only be used in a factory located in Brewster, Washington. Big Manufacturing receives the benefit of the engineer's services at a single location in Washington where the tool is intended to be used. Therefore, 100% of engineer's receipts from this service must be attributed to Washington.~~

~~Example 12. The same facts as in Example 11, except Big Manufacturing will use the tool equally in factories located in Brewster and in Kapa'a, Hawai'i. Therefore, Big Manufacturer receives the benefit of the service equally in two states. Because the benefit of the service is received equally in both states, a reasonable method of proportionally attributing receipts would be to attribute 1/2 of the receipts to each state.~~

~~Example 13. Taxpayer, a commissioned salesperson, sells tangible personal property (100 widgets) for Distributor to XYZ Company for delivery to Spokane. Distributor receives the benefit of Taxpayer's service where the tangible personal property will be delivered. Therefore, Taxpayer will attribute the commission from this sale to Washington.~~

~~Example 14. Same facts as in Example 13, but the widgets are to be delivered 50 to Spokane, 25 to Idaho, and 25 to Oregon. In this case, the benefit is received in all three states. Taxpayer shall attribute the receipts (commission) from this sale 50% to Washington, 25% to Idaho, and 25% to Oregon where the tangible personal property is delivered to the buyer.~~

~~Example 15. Training Company provides training to Customer's employees on how to operate a specific piece of equipment used solely in Washington. Customer receives the benefit of the service where the equipment is used, which is in Washington. Therefore, Training Company will attribute 100% of its receipts received from Customer to Washington.)~~

(c) **Services related to customer's business activities.** The examples in this subsection assume that the customer is engaged in business and the services relate to the customer's business activities.

~~((Example 16. Manufacturer hires Law Firm to defend Manufacturer in a class action product liability lawsuit involving Manufacturer's Widgets. The benefit of Law Firm's services relates to Manufacturer's widget selling activity in various states. A reasonable method of proportionally attributing receipts in this case would be to attribute the receipts to the locations where the Manufacturer's Widgets were delivered, which relates to Manufacturer's business activities.)) (i) The following are examples where the customer's related business activities occur in the customer's market.~~

~~Example 12. Taxpayer, a commissioned salesperson, sells tangible personal property (100 widgets) for Distributor to XYZ Company for delivery to Spokane. Taxpayer's service is engaging in Distributor's product sales. Distributor receives the benefit of Taxpayer's service in its market, which in this case is Spokane, the location where XYZ Company receives the widgets. Taxpayer will attribute the commission income from this sale to Washington.~~

~~Example 13. Same facts as in Example 12, but 50 of the widgets are to be delivered to Spokane, 25 to Idaho, and 25 to Oregon. In this case, Distributor receives the benefit of Taxpayer's services in all three states. Taxpayer will attribute the receipts (commission income) from this sale 50% to Washington, 25% to Idaho, and 25% to Oregon, the locations where XYZ receives the widgets. It is assumed that the com-~~

mission income is not proportionally different from percentage of widgets delivered into each state.

Example ((17)) 14. Debt Collector provides debt collection services to ABC. ~~((The benefit of Debt Collector's services relates to ABC's selling activity in various states.))~~ Debt Collector's service is obtaining and facilitating amounts owed to ABC from the sale of ABC's products. ABC receives the benefit of Debt Collector's service in ABC's market. It is reasonable to assume that ABC's market is where the debtors are located ((is the same as where ABC's business activity occurred)) in various states. If Debt Collector is able to attribute specific receipts to a specific debtor, then the receipt is attributed to where the debtor is located.

Example ((18)) 15. Same facts as Example ((17)) 14, except Debt Collector is paid a lump sum amount and is unable to attribute specific benefits with specific debtors. In this case, a reasonable method of proportionally attributing benefits/receipts should be employed. Depending on Debt Collector's specific facts and circumstances, a reasonable method of proportionally attributing benefits/receipts could be: Relative number of debtors in each state; relative debt actually collected from debtors in each state; the relative amount of debt owed by debtors in each state; or another method that ~~((does not distort the apportionment of))~~ fairly apportions Debt Collector's receipts.

~~((Example 19. Training Company provides training to Customer's employees who are all located in State A. The training is provided in State B. The training relates to the employees' ethical behavior within Customer's organization. Customer receives the benefit of Training Company's service in State A, where Customer's office is located and the employees presumably practice their ethical behavior. Training Company must attribute the apportionable receipts to State A where the benefit is solely received.~~

Example 20. ~~Same facts as Example 19, except the training is provided for employees from several states and Training Company knows where each employee works. The benefit of the Training Company's services is received in those several states. Attributing receipts from the training based on where the employees work is a reasonable method of proportionally attributing the receipts income.))~~

Example ((21)) 16. Call Center provides "customer service" services to Retailer who has customers in all 50 states. Call Center handles inquiries from Retailer's customers on how to install and use Retailer's products, and troubleshoots customer issues related to the products sold. Call Center also informs Retailer's customers about package deals and other discounts on Retailer's new lines of products. Call Center's services ~~((relate to Retailer's selling activity in all 50 states, therefore))~~ are promoting Retailer's products by incentivizing customers to make additional purchases, and establishing or maintaining Retailer's market by supporting existing customers. Retailer receives the benefit of Call Center's services in its market, which in this case is all 50 states. Call Center has offices in Iowa and Alabama that answer questions about Retailer's products. Call Center records Retailer's ~~((customer's))~~ customers' calls by area code. Call Center may attribute receipts received from Retailer based on the number of calls from area codes assigned to each state. This would be a reasonable method of proportionally attributing receipts notwithstanding the fact that mobile phone numbers and related area codes may not exactly reflect the physical location of the customer in all cases.

Example ((22)) 17. Taxpayer provides internet advertising services to national retail chains, regional businesses, businesses with a single location, and businesses that operate solely over the internet. Taxpayer's services are promoting customers' products. Generally, each customer receives the benefit of ((the)) Taxpayer's advertising services ((is received where the customer's related business activities occur)) in each customer's market. Taxpayer determines, based on its books and records, where each customer receives the benefit in its market. If Taxpayer cannot obtain this information, it would then use a reasonable method of proportionally attributing the benefit of its service to the customer's market. Depending on what products or services ((are being provided by)) Taxpayer's customers are providing, the use of relative ((population)) internet connections in the customer's market based on Federal Communications Commission (FCC) data may be a reasonable method of proportionally attributing the benefit of Taxpayer's services to customers' markets.

Example ((23)) 18. Oregon Newspaper sells newspaper advertising to Merlin's Potion Shop. Merlin's only makes over-the-counter sales from its single location in Vancouver, Washington. Oregon Newspaper is promoting Merlin's Potion Shop's products. Merlin's Potion Shop receives the benefit of ((the)) Oregon Newspaper's advertising services in its market in Washington, where it makes sales to its customers. In this case Oregon Newspaper will report 100% of its receipts ((received)) from Merlin's to Washington.

Example 19. Recording Company provides content development services for its customer, Licensing Company. Recording Company's content development services consist of recording and developing a live television program, and selling this program to Licensing Company. Before Recording Company records and develops the program, Licensing Company has already sold the broadcasting rights for this program to third-party broadcasters. Licensing Company does not conduct any further development of its own on the television program. Recording Company's service is completing Licensing Company's sales. Licensing Company receives the benefit of Recording Company's service in Licensing Company's market. In this case Licensing Company's market is where the broadcasters use Licensing Company's rights to the television program.

Example 20. Marketer A contracts with Seller to conduct a "marketing campaign" service for Seller. Marketer A's marketing campaign consists of researching population groups most likely to purchase Seller's products, developing targeted promotional materials, and distributing those materials to the identified population groups via mail and social media. Marketer A subcontracts with Marketer B, for Marketer B to conduct the marketing campaign service.

Marketer A's services are promoting Seller's products. Seller receives the benefit of Marketer A's services in Seller's market, where Seller sells the products being promoted by Marketer A's campaign.

Marketer B's services are completing Marketer A's product sales. By conducting the marketing campaign for Marketer A, Marketer B is fulfilling Marketer A's contractual obligations to Seller. Marketer A receives the benefit of Marketer B's services in Marketer A's market. In this case, Marketer A's market is the same as Seller's market, where Seller receives the benefit of Marketer A's service.

Marketer B will attribute its receipts from Marketer A to Seller's market using information supplied by Marketer A about Seller's market. If Marketer A and Marketer B are affiliated, the presumption is that Marketer A should be able to provide to Marketer B the information about Seller's market.

Example 21. Investment Manager contracts with a mutual fund company to manage a fund. Investment Manager receives a fee from the mutual fund company for managing the fund based on the value of the assets in the fund on particular days. Responsibilities in managing the fund consist of: Helping the fund execute business strategies through daily management of the fund, overseeing the buying and selling of fund holdings, and investor servicing. Investment Manager determines what assets the fund will buy with investors' money. The fund manager is responsible for making sure the portfolio is earning the expected return, which is a significant consideration when investors decide which fund to invest their money in. The mutual fund discloses to investors in the fund's prospectus statement who the Investment Manager is and the management fees paid. Investment Manager knows or should know the identity of the investors in the fund and their mailing addresses. Investment Manager's service is establishing or maintaining the mutual fund company's market. In this case, it is reasonable to assume that the mutual fund company's market is where the investors are located. Investment Manager will attribute its receipts from managing the fund to those investor locations.

Example 22. Staffing Co. contracts with ISP Inc., an internet service provider, to provide supplemental marketing staff at ISP's sole office in State A. The supplemental marketing staff make calls to current and prospective customers of ISP, offering additional or enhanced services such as faster internet speed, ad blocking, and video conferencing. ISP sells internet services in States A, B, and C. The activities of Staffing Co.'s supplemental marketing staff are promoting ISP's products. ISP receives the benefit of Staffing Co.'s service in ISP's market, which in this case is States A, B, and C.

Example 23. Management Co. provides customer support services to Customer A. Customer A's only physical location is its office in State Z. Customer A makes sales throughout the United States. Per the contract between Management Co. and Customer A, customer support services provided by Management Co. consist of operating a call center to handle Customer A's calls and emails related to services and sales. Management Co.'s customer support services are establishing and maintaining Customer A's market. Customer A receives the benefit of Management Co.'s service in Customer A's market throughout the United States.

(ii) The following are examples where the customer's related business activities occur at the customer's business location(s). In these examples, the taxpayer's service is not promoting the customer's products, is not engaging in or completing sales of the customer's products, is not obtaining or facilitating payment of amounts owed to the customer from the sale of its products, and is not establishing or maintaining the customer's market.

Example 24. Same facts as Example 22, except Staffing Co. provides supplemental human resources staff to support business operations at ISP Inc.'s office in State A. Some of the supplemental staff work remotely, while others work at ISP's office. The supplemental human resources staff's work consists of recruiting and onboarding employees, facilitating communications between employees and management, managing employee benefits, and handling internal disciplinary actions. ISP receives the benefit of Staffing Co.'s service at ISP's business location(s). ISP's only office location is in State A. In this case the staffing service does not require ISP to be physically present, but relates to a specific, known business location, ISP's office in State A. ISP receives the benefit of Staffing Co.'s service in State A.

Example 25. Same facts as Example 23, except Management Co. also provides network support services to Customer A. Per the contract between Management Co. and Customer A, network support services provided by Management Co. consist of providing administrative, technical, and engineering support staff to develop, implement, and maintain all internal software elements for Customer A. Customer A's internal software allows Customer A's employees to perform their job duties, and includes operating systems, recordkeeping, filesharing, data and anti-virus protection, and timekeeping software. Customer A receives the benefit of Management Co.'s service at Customer A's business location(s). In this case the network support services do not require Management Co. to be physically present, but relate to a specific, known business location, Customer A's physical location in State Z. Customer A receives the benefit of Management Co.'s network support services in State Z.

Example 26. Big Manufacturing hires an engineer to design a tool that will only be used in a factory located in Brewster, Washington. Big Manufacturing receives the benefit of the engineer's services at its business location. In this case the design service does not require Big Manufacturing to be physically present, but relates to a specific, known business location, the single location in Washington where Big Manufacturing intends to use the tool. One hundred percent of engineer's receipts from this service must be attributed to Washington.

Example 27. The same facts as in Example 26, except Big Manufacturing will use the tool equally in factories located in Brewster and in Kapa'a, Hawai'i. Big Manufacturing receives the benefit of the service at its business locations equally in two states. As a result, a reasonable method of proportionally attributing receipts would be to attribute 1/2 of the receipts to each state.

Example 28. Training Company provides training to Customer's employees on how to operate a specific piece of equipment used solely in Washington. Customer receives the benefit of the service at its business location(s). In this case the training service does not require the customer to be physically present, but relates to a specific, known business location in Washington, where employees use the equipment. Training Company will attribute 100% of its receipts received from Customer to its business location in Washington.

Example 29. Training Company provides manufacturing process improvement training to Customer's employees who are all located in State A. The training is provided from State B. Customer receives the benefit of Training Company's service at Customer's business location(s). In this case the training service does not require Customer's employees to be physically present, but it relates to the specific, known business location at Customer's office in State A, where the employees improve the manufacturing process. Training Company must attribute the apportionable receipts to State A where Customer solely receives the benefit of Training Company's service.

Example 30. Same facts as Example 29, except the training is provided for employees from several states and Training Company knows where each employee is assigned to work. Training Company's services relate to Customer's specific, known business locations where the employees are assigned to work in those several states, which is presumed to be where the employees use the training. Attributing receipts from the training based on where the employees are assigned to work is a reasonable method of proportionally attributing the receipts income.

Example 31. Training Company provides sales strategy training to Retailer's sales employees who are all located at Retailer's office in State A but make sales to Retailer's customers in all 50 states. The training is provided from State B via a combination of in-person and virtual attendance. Retailer receives the benefit of Training Company's service at Retailer's business location(s). In this case the training service does not require Retailer's employees to be physically present, but it relates to the specific, known business location at Retailer's office in State A, where Retailer's employees are assigned to work. This location is presumed to be where Retailer's sales employees use their improved skill sets from the training. Retailer receives the benefit of Training Company's service at Retailer's business location in State A.

Example 32. Manufacturer hires Law Firm to defend Manufacturer in a class action product liability lawsuit involving Manufacturer's Widgets. Manufacturer's principal place of business is in Washington. Manufacturer receives the benefit of Law Firm's service at Manufacturer's business location(s). In this case, Law Firm's service does not require Manufacturer to be physically present, and does not relate to a specific, known business location(s). Manufacturer's business location is its principal place of business or commercial domicile in Washington, where Manufacturer receives the benefit of Law Firm's services.

Example 33. Game Publisher hires Developer to perform software development services in connection with a new computer game that Game Publisher will release in the following year. Under the contract between Game Publisher and Developer, Developer's primary duty is to deliver a "beta" version of the computer game that Game Publisher will use for further development. Developer performs all of its software development activities at its office in Seattle. After Developer delivers a beta version of the game, Game Publisher will perform additional development on the game at its locations in California. Game Publisher receives the benefit of Developer's service at Game Publisher's business location(s). In this case Developer's service does not require Game Publisher to be physically present, but relates to the specific, known business locations in California where Game Publisher performs additional development. Developer will attribute 100% of its receipts from Game Publisher to California where Game Publisher receives the benefit of the service.

Example 34. Game Publisher received consumer complaints about its game console overheating and contracts with QA Company to determine the cause of and a possible solution to the problem. Under the contract, QA Company will receive compensation for providing testing services specific to the game console. Game Publisher will use QA Company's findings and recommendation to determine how to repair the video game console at its manufacturing location in California. Game Publisher receives the benefit of QA Company's service at Game Publisher's business location(s). In this case QA Company's service does not require Game Publisher to be physically present, but relates to the specific, known business location(s) in California where Game Publisher will perform additional development to resolve the issue. QA Company will attribute 100% of its receipts from Game Publisher to California where Game Publisher receives the benefit of the service.

Example ((24)) 35. Company A provides human resources services to Racko, Inc. which has three offices that use those services in Washington, Oregon, and Idaho. Racko sells widgets and has customers for its widgets in all 50 states. Racko receives the benefit of ((the))

Company A's services (~~((performed by Company A is received))~~) at Racko's business locations. In this case Company A's services do not require Racko's employees to be physically present, but relate to the specific, known business locations of Racko's offices in Washington, Oregon, and Idaho. Assuming that each office is approximately the same size and uses the services to approximately the same extent, then attributing 1/3 of the receipts to each of the states in which Racko has locations using the services is a reasonable method of proportionally attributing Company A's receipts from Racko.

Example ((25)) 36. Director serves on the board of directors for DEF, Inc. Director's services relate to the general management of DEF(~~((Inc.))~~). DEF(~~((Inc.))~~) is Director's customer and receives the benefit of Director's services at (~~((its corporate))~~) DEF's business location(s). In this case Director's services do not require any employees of DEF to be physically present, and do not relate to any specific, known business location. DEF's business location is its principal place of business or commercial domicile. (~~((Therefore,))~~) Director must attribute the receipts earned from Director's services to DEF to DEF's (~~((corporate))~~) principal place of business or commercial domicile.

Example 37. Insurance Company hires Law Firm to provide insurance defense services. Law Firm's insurance defense services involve representing one of Insurance Company's policyholders to minimize liability in a third-party lawsuit claiming damages against that policyholder. Insurance Company receives the benefit of Law Firm's service at Insurance Company's business location(s). In this case, Law Firm's service does not require Insurance Company to be physically present. However, Law Firm's service relates to a specific, known business location(s) that can be tied to its representation of the specific policyholder. Law Firm knows or should know the jurisdiction where the third party files its lawsuit against the policyholder, or where settlement occurs. This jurisdiction is the business location where Law Firm represents the policyholder and minimizes Insurance Company's liability. Insurance Company receives the benefit of Law Firm's service at this jurisdiction where the third party files its lawsuit, or where settlement occurs.

(d) **Services not related to real (~~((or tangible personal))~~) property and either provided to customers not engaged in business or unrelated to the customer's business activities.**

Example ((26)) 38. A Washington resident travels to California for a medical procedure. Because the Washington resident must be physically present in California, the Washington resident receives the benefit of the service in California. (~~((Therefore,))~~) The service provider must attribute its income from the procedure to California.

Example ((27)) 39. Washington accountant prepares a Nevada couple's Arizona and Oregon state income tax returns as well as their federal income tax return. The benefit of the accountant's service associated with the state income tax returns is attributed to Arizona and Oregon because these returns relate to specific locations (states). The benefit associated with the federal income tax return is attributed to the couple's residence. The fees for the state tax returns are attributed to Arizona and Oregon, respectively, and the fee for the federal income tax return is attributed to Nevada.

Example ((28)) 40. Tour Operator provides cruises through Washington's San Juan Islands for four days and Victoria, British Columbia for one day. Tour Operator's customers receive the benefit of (~~((the tour is received))~~) Tour Operator's services where the tour occurs. Tour Operator may use a reasonable method of proportionally attribut-

ing the benefit to determine that its customers receive 80% of the benefit in Washington and 20% outside of Washington. ((Therefore,)) Tour Operator must attribute 80% of apportionable receipts to Washington and 20% to British Columbia.

Example ((29)) 41. A Washington couple hires a Washington attorney to prepare a last will and testament for Daughter who lives in California. Daughter is a third-party beneficiary and receives the benefit of the attorney's services in California because that is where Daughter lives. Washington Attorney must attribute the fee to California.

Example ((30)) 42. A Washington couple hires a California accountant to prepare their joint federal income tax return. Because the couple does not have to be physically present for the accountant to perform services and services are not related to a specific location, the Washington couple receives the benefit of the accountant's services at their residence in Washington. California accountant must attribute its fee for this service to Washington.

Example ((31)) 43. An Arizona resident retains a Washington stockbroker to handle its investments. The stockbroker receives orders from the client and executes trades of securities on the New York Stock Exchange. Because (a) the Arizona resident is not investing as part of a business; (b) the activity does not relate to real ((or tangible personal)) property; (c) ((and)) the client does not need to be physically present for the stockbroker to perform its services; and (d) the services are not related to a specific location, the client receives the benefit of the services at client's place of residence. Washington stockbroker must attribute the fee to Arizona.

~~((Example 32. Investment Manager manages a mutual fund. Investment Manager receives a fee for managing the fund based on the value of the assets in the fund on particular days. Investment Manager knows or should know the identity of the investors in the fund and their mailing addresses. The fees received by Investment Manager (whether from the mutual fund or from individual investor's accounts) are for the services provided to the investors. Investment Manager's services do not relate to real or tangible personal property and do not require that the client be physically present, therefore, the benefit of Investment Manager's services is received where the investors are located and Investment Manager's apportionable receipts must be attributed to those locations.))~~

(305) Special rules related to extending credit performed by non-financial institutions. Businesses not included in the definition of a financial institution under WAC 458-20-19404 that provide services related to the extension of credit must attribute their income from such activities as follows:

(a) **Activities related to extending credit where real property secures the debt.** Such activities include, but are not limited to, servicing loans, making loans subject to deeds of trust or mortgages (including any fees in the nature of interest related to the loan), and buying and selling loans. Apportionable receipts from these activities are attributed in the same manner as a financial institution attributes these apportionable receipts under WAC 458-20-19404.

(b) **Activities related to credit cards.** Such activities include, but are not limited to, issuing credit cards, servicing, and billing. Apportionable receipts from these activities are attributed to the billing address of the card holder.

(c) **Other activities related to extending credit where real property does not secure the debt.** Such activities include, but are not

limited to, servicing loans, making loans (including any fees related to such loans), and buying and selling loans. Apportionable receipts from these activities are attributed in the same manner a financial institution attributes income under WAC 458-20-19404.

(d) **All other apportionable receipts.** All other apportionable receipts from such businesses are attributed using subsections (301) through (304) of this rule or WAC 458-20-19403.

(306) **What does "unable to attribute" mean?** A taxpayer is "unable to attribute" apportionable receipts when the taxpayer has no commercially reasonable means to acquire the information necessary to attribute the apportionable receipts. Cost and time may be considered to determine whether a taxpayer has no commercially reasonable means to acquire the information necessary to attribute apportionable receipts. See Examples 44 through 46 below, as well as Examples 5 through 7 in this rule.

Example ((33)) 44. ((One)) The marketing office of ZYX LLC has information that can easily be used to determine a reasonable proportional attribution of receipts from providing marketing services to customers, but does not provide this information to the accounting office preparing the tax returns. ZYX ((LLC)) must use the information maintained by the marketing office to attribute its receipts.

Example ((34)) 45. CBA, Inc. is entitled to receive information from an affiliate or unrelated third party which it could use to determine where the customer receives the benefit of ((its)) CBA's services ((is received)), but chooses not to obtain that information. CBA((, Inc.)) must use the information maintained by the affiliate or unrelated third party to attribute its apportionable receipts.

Example ((35)) 46. Same facts as Example ((34)) 45, except that the information is raw data that must be formatted and otherwise processed at a cost that exceeds a reasonable estimate of the possible difference in the amount of tax CBA((, Inc.)) would owe if it used another attribution method authorized in subsection (301) ((b) through (f)) (c) through (g) of this rule. In this case, it is not commercially reasonable for CBA((, Inc.)) to use this data to determine where to attribute its income.

PART 4. RECEIPTS FACTOR.

(401) **General.** The receipts factor is a fraction that applies to apportionable income for each calendar year. Taxpayers must calculate a separate receipts factor for each apportionable activity ((business and occupation)) B&O tax classification engaged in.

(402) **Receipts factor calculation.** The receipts factor is: Washington-attributed apportionable receipts divided by world-wide apportionable receipts less throw-out income (see subsection (403) of this section). The receipts factor expressed algebraically is:

$$\text{(Receipts factor)} = \frac{\text{(Washington apportionable receipts)}}{\text{((Worldwide apportionable receipts) - (Throw-out income))}}$$

(a) The numerator of the receipts factor is: The total apportionable receipts attributable to Washington during the calendar year from engaging in the apportionable activity.

(b) The denominator of the receipts factor is: The total (world-wide, including Washington) apportionable receipts from engaging in the apportionable activity during the calendar year, less throw-out income.

Example ((36)) 47. NOP, Inc. has \$400,000 of receipts attributed to Washington and \$1,000,000 of worldwide receipts. Assuming that there is no throw-out income, NOP's receipts factor is 40% (400,000/1,000,000).

(c) In the very rare situation where the receipts factor (after reducing the denominator by the throw-out income) is zero divided by zero, the receipts factor is deemed to be zero.

(403) **Throw-out income.** Throw-out income includes all apportionable receipts attributed to states where the taxpayer:

(a) Is not taxable (see subsection (106) of this rule); and

(b) At least part of the activity of the taxpayer related to the throw-out income is performed in Washington.

Example ((37)) 48. During 2019, XYZ Corp. performs all services in Washington and has apportionable receipts attributed using the criteria listed in subsections (301) through (305) of this rule or WAC 458-20-19403 as follows: Washington \$500,000; Idaho (~~(\$200,000)~~) \$50,000; Oregon \$100,000; and California \$300,000. XYZ (~~(Corp.)~~) is subject to Oregon and Idaho corporate income tax, but does not owe any California business activities taxes. XYZ does not have any throw-out income because Oregon and Idaho impose a business activities tax on its activities and it is deemed to be taxable in California because it satisfies the minimum nexus standards for 2019 explained in WAC 458-20-19401 (~~((more than \$250,000 in receipts))~~). XYZ's receipts factor is: (~~((500,000/1,100,000 or 45.45%))~~) 500,000/950,000 or 52.63%. See current minimum nexus standard for periods beginning January 1, 2020.

Example ((38)) 49. Same facts as Example ((37)) 48 except Idaho does not impose any tax on XYZ (~~(Corp.)~~). The (~~(\$200,000)~~) \$50,000 attributed to Idaho is throw-out income that is excluded from the denominator because: XYZ (~~(Corp.)~~) is not subject to Idaho business activities taxes(~~(+)~~), does not have substantial nexus with Idaho under Washington standards(~~(+)~~), and performs in Washington at least part of the activities related to the receipts attributed to Idaho. The receipts factor is 500,000/900,000 or 55.56%.

Example ((39)) 50. The same facts as Example ((38)) 49 except XYZ (~~(Corp.)~~) performs no activities in Washington related to the (~~(\$200,000)~~) \$50,000 attributed to Idaho. In this situation, the (~~(\$200,000)~~) \$50,000 is not throw-out income and remains in the denominator. The receipts factor is: (~~((500,000/1,100,000 or 45.45%))~~) 500,000/950,000 or 52.63%.

PART 5. HOW TO DETERMINE WASHINGTON TAXABLE INCOME.

(501) **General.** Washington taxable income is determined by multiplying apportionable income by the receipts factor for each apportionable activity the taxpayer engages in. While the receipts factor is calculated without (~~(regard to)~~) accounting for deductions authorized under chapter 82.04 RCW, apportionable income is determined by reducing the apportionable receipts by amounts that are deductible under chapter 82.04 RCW, regardless of where the deduction may be attributed. This formula can be expressed algebraically as:

$$\begin{array}{l} \text{(Taxable} \\ \text{Income)} \end{array} = \begin{array}{l} \text{(Receipts} \\ \text{Factor)} \end{array} \times \begin{array}{l} \text{(Apportionable} \\ \text{receipts} \\ \text{deductions)} \end{array}$$

Example ((40)) 51. Calculating apportionable income. Corporation A received \$2,000,000 in apportionable receipts from its worldwide apportionable activities, which included \$500,000 of receipts that are deductible under Washington law. Corporation A's total apportionable income is \$1,500,000 (\$2,000,000 minus \$500,000 of deductions). If

Corporation A's receipts factor is 31.25%, then its taxable income is \$468,750 (\$1,500,000 multiplied by 0.3125).

PART 6. REPORTING INSTRUCTIONS.

(601) General.

(a) Taxpayers required to use this rule's apportionment method may report their taxable income based on their apportionable income for the reporting period multiplied by the receipts factor for the most recent calendar year the taxpayer has available.

(b) If a taxpayer does not calculate its taxable income using (a) of this subsection, the taxpayer must use actual current calendar year information.

(602) Reconciliation. Regardless of how a taxpayer reports its taxable income under subsection (601)(a) or (b) of this rule, ~~((when the))~~ a taxpayer ((has the information)) that has reportable apportionable income must file a reconciliation to determine the receipts factor for an entire calendar year((, it must file a)) by October 31st of the following year. If the date for filing falls on a Saturday, Sunday, or legal holiday, the reconciliation will be considered timely if filed on the next business day. The reconciliation filing must be on the department's "annual reconciliation of apportionable income" form. The reconciliation ((and)) may result in the taxpayer either ((obtain)) obtaining a refund or ((pay)) paying any additional tax due. ((The reconciliation must be filed on a form approved by the department.)) In either event (refund or additional taxes due), interest will apply in a manner consistent with tax assessments. If the reconciliation is completed ~~((prior to))~~ and any additional tax shown on the reconciliation has been paid by the October 31st ((of the following year)) due date, no penalties will apply to ~~((any))~~ the additional tax ((that may be due)) shown on the reconciliation.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), 82.04.067, 82.04.460, and 82.04.462. WSR 15-04-004, § 458-20-19402, filed 1/22/15, effective 2/22/15. Statutory Authority: RCW 82.04.067, 82.32.300, and 82.01.060(2). WSR 13-22-044, § 458-20-19402, filed 10/31/13, effective 12/1/13. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 12-19-071, § 458-20-19402, filed 9/17/12, effective 10/18/12.]

WSR 23-10-088
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-03—Filed May 3, 2023, 9:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-03-051 on January 10, 2023.

Title of Rule and Other Identifying Information: 2023 North of Falcon coastal commercial salmon seasons. The Washington department of fish and wildlife (WDFW) is proposing amendments to WAC 220-354-250 Willapa Bay salmon fall fishery and WAC 220-354-290 Grays Harbor salmon fall fishery.

Hearing Location(s): On June 8, 2023, at 2:00 p.m., Zoom meeting. Register in advance for this meeting <https://us02web.zoom.us/join/register/tZwtdu-upzgrH9NgoqSqwS-W2mTTvVMrXKlK>. After registering, you will receive a confirmation email containing information about joining the meeting.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: Scott Bird, WDFW rules coordinator, public comment website <https://publicinput.com/nof2023-coastal-commercial>, email nof2023-coastal-commercial@PublicInput.com, voice-mail comments 855-925-2801, project code 3461, by June 8, 2023.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 711, email Title6@dfw.wa.gov, <https://wdfw.wa.gov/accessibility/requests-accommodation>, by June 8, 2023.

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 2023, and provide the season schedule for the 2023 fall commercial salmon gillnet fisheries in Willapa Bay and Grays Harbor.

These proposed rules regulate the commercial fisheries in Willapa Bay and Grays Harbor and are part of a comprehensive rule-making package to implement the new 2023-2024 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, while these rules regulate only commercial fisheries, the seasons specified in these proposed rules are part of implementing Willapa Bay-wide commercial and recreational fisheries in a coordinated manner pursuant to the Willapa Bay Salmon Management Policy C-3622. As such, the proposed commercial fishery for 2023-2024 is structured in a manner intended to consider and provide both commercial and recreational fishing opportunities in Willapa Bay and Grays Harbor, 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.

Though drafted as amendments to preceding rules, these new amendments function as a coordinated and unitary fishery package for the 2023-2024 fishery season, and thus substantively replace prior years' fisheries in Willapa Bay and Grays Harbor. Comments should be considered and provided with that understanding.

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 2023, 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 WDFW'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, and 77.12.047.

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: None.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting: Barbara McClellan or Kim Figlar-Barnes, 48 Devonshire Road, Montesano, WA 98563, 360-470-3459 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).

Explanation of exemptions: WDFW 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 2023-2024 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.

Scope of exemption for rule proposal:

Is fully exempt.

May 3, 2023
 Scott Bird
 Rules Coordinator

OTS-4527.1

AMENDATORY SECTION (Amending WSR 22-14-053, filed 6/29/22, effective 7/30/22)

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 for the dates listed in the table below:

| Area | Time | Date(s) | Maximum Mesh Size |
|---------------------|-----------------------------|------------------------------|-------------------|
| ((2N, 2M | 6:00 a.m. through 6:00 p.m. | 8/26 | 4.25" |
| 2N, 2M | 6:00 a.m. through 6:00 p.m. | 9/2 | 4.25" |
| 2N, 2M | 6:00 a.m. through 6:00 p.m. | 9/7 | 4.25" |
| 2N | 7:00 a.m. through 7:00 p.m. | 9/12, 9/13, 9/15, 9/16, 9/17 | 4.25" |
| 2M | 7:00 a.m. through 7:00 p.m. | 9/12, 9/13, 9/15, 9/16 | 4.25" |
| 2T, 2U | 7:00 a.m. through 7:00 p.m. | 9/16, 9/17 | 4.25" |
| 2N, 2M, 2R, 2T, 2U | 7:00 a.m. through 7:00 p.m. | 9/19, 9/20, 9/21, 9/22, 9/23 | 6.5" |
| 2N, 2M, 2R, 2T, 2U | 7:00 a.m. through 7:00 p.m. | 9/26, 9/27, 9/29, 9/30, 10/1 | 6.5" |

| Area | Time | Date(s) | Maximum Mesh Size |
|---------------------------|------------------------------------|---|-------------------|
| 2N, 2M, 2R, 2T, 2U | 7:00 a.m. through 7:00 p.m. | 10/3, 10/4, 10/5, 10/6, 10/7 | 6.5" |
| 2N, 2R, 2T, 2U | 7:00 a.m. through 7:00 p.m. | 10/9, 10/10, 10/13, 10/15 | 6.5" |
| 2M | 7:00 a.m. through 7:00 p.m. | 10/9, 10/10 | 6.5" |
| 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. | 11/7, 11/11 | 6.5" |
| 2N, 2M, 2T, 2U | 7:00 a.m. through 7:00 p.m. | 11/16 | 6.5")) |
| <u>2N</u> | <u>6:00 a.m. through 6:00 p.m.</u> | <u>8/20</u> | <u>4.25"</u> |
| <u>2M, 2R</u> | <u>6:00 a.m. through 6:00 p.m.</u> | <u>8/25</u> | <u>4.25"</u> |
| <u>2N</u> | <u>6:00 a.m. through 6:00 p.m.</u> | <u>8/27</u> | <u>4.25"</u> |
| <u>2M, 2R</u> | <u>6:00 a.m. through 6:00 p.m.</u> | <u>8/31</u> | <u>4.25"</u> |
| <u>2N, 2R</u> | <u>6:00 a.m. through 6:00 p.m.</u> | <u>9/10, 9/13</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R, 2T, 2U</u> | <u>6:00 a.m. through 6:00 p.m.</u> | <u>9/16</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R, 2T</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/17</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/18</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/19, 9/20</u> | <u>4.25"</u> |
| <u>2N, 2M, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/21, 9/22</u> | <u>4.25"</u> |
| <u>2M</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/23</u> | <u>4.25"</u> |
| <u>2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/24, 9/25, 9/26, 9/27, 9/28</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/24</u> | <u>6.5"</u> |
| <u>2N, 2M, 2R, 2T</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/25, 9/26, 9/27, 9/28, 9/29</u> | <u>6.5"</u> |
| <u>2M</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>9/30</u> | <u>6.5"</u> |
| <u>2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/1, 10/2, 10/3, 10/4, 10/5, 10/6</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R, 2T</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/1, 10/2, 10/3</u> | <u>6.5"</u> |
| <u>2N, 2M, 2R</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/4</u> | <u>6.5"</u> |
| <u>2N, 2M, 2R, 2T</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/5, 10/6</u> | <u>6.5"</u> |
| <u>2M, 2T</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/7</u> | <u>6.5"</u> |
| <u>2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/9, 10/10, 10/11, 10/12, 10/13</u> | <u>4.25"</u> |
| <u>2N, 2M, 2R, 2T</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>10/9, 10/10, 10/11, 10/12, 10/13</u> | <u>6.5"</u> |
| <u>2N, 2R, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/2</u> | <u>6.5"</u> |
| <u>2N, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/3</u> | <u>6.5"</u> |
| <u>2N, 2M, 2R, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/6</u> | <u>6.5"</u> |
| <u>2N, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/9</u> | <u>6.5"</u> |
| <u>2N, 2M, 2R, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/13</u> | <u>6.5"</u> |
| <u>2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/16</u> | <u>6.5"</u> |
| <u>2N, 2M, 2R, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/20</u> | <u>6.5"</u> |
| <u>2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/21</u> | <u>6.5"</u> |
| <u>2M, 2T, 2U</u> | <u>7:00 a.m. through 7:00 p.m.</u> | <u>11/27</u> | <u>6.5"</u> |

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 ((26)) 20 through 11:59 p.m. November ((16, 2022)) 27, 2023: 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 ((26, September 2, 7, 12, 13, 15, 16, and 17, Area 2M on August 26, September 2, 7, 12, 13, 15, and 16, and Areas 2T and 2U on September 16 and 17, 2022)) 20, 27, September 10, 13, 16, 17, 18, 19, 20, 21, and 22, Area 2M on August 25, 31, September 16, 17, 18, 19, 20, 21, 22, and 23, Area 2R on August 25, 31, September 16, 17, 18, 19, and 20, Area 2T on September 16, 17, 18, 21, and 22, and Area 2U on September 16, 18, 19, 20, 21, 22, September 24 through September 28, October 1 through October 6, and October 9 through October 13, 2023.

Other:

(3) Recovery boxes and soak time limits described in this section are required from 12:01 a.m. August ((26)) 20 through 11:59 p.m. November ((16, 2022)) 27, 2023:

(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 ((26)) 20 through 11:59 p.m. November ((16, 2022)) 27, 2023, 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 (~~(26)~~) 20 through 11:59 p.m. November (~~(16, 2022)~~) 27, 2023, 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~~) CLOSED from 12:01 a.m. September 16, (~~(2022)~~) 2023, through 11:59 p.m., September 30, (~~(2022)~~) 2023.

(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 (~~(19, 2022)~~) 11, 2023.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 22-14-053 (Order 22-116), § 220-354-250, filed 6/29/22, effective 7/30/22; 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-4528.1

AMENDATORY SECTION (Amending WSR 22-14-053, filed 6/29/22, effective 7/30/22)

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

(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 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 10 revolutions of rope that is 3/8 (0.375) inches in diameter or greater.

(b) Areas 2A and 2D from (~~September 28~~) October 3 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~~) October 3-4, and October 18, 2023.

(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 diam-

eter. 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 (~~September 28~~) October 3 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 September (~~21~~) 26, 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~~) October 3, 2023, through 11:59 p.m., October (~~2022~~) 21, 2023.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 22-14-053 (Order 22-116), § 220-354-290, filed 6/29/22, effective 7/30/22; 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, ef-

fective 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 23-10-089
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-04—Filed May 3, 2023, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-03-052 on January 10, 2023.

Title of Rule and Other Identifying Information: 2023 North of Falcon Puget Sound commercial salmon seasons. The Washington state department of fish and wildlife (WDFW) 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, 220-354-210 Puget Sound salmon—Beach seine—Open periods, and 220-301-030 Puget Sound Salmon Management and Catch Reporting Areas.

Hearing Location(s): On June 8, 2023, at 2:00 p.m., Zoom meeting. Register in advance for this meeting <https://us02web.zoom.us/join/register/tZwtdupzgrH9NgoqSqws-W2mTTvVMrXKlK>. After registering, you will receive a confirmation email containing information about joining the meeting.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: 2023 North of Falcon - Puget Sound commercial fisheries rule-making website <https://publicinput.com/nof2023-ps-commercial>, email nof2023-ps-commercial@PublicInput.com, voicemail comments 855-925-2801, project code 6195, by June 8, 2023.

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, <https://wdfw.wa.gov/accessibility/requests-accommodation>, by June 8, 2023.

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 2023, and provide the season schedule for the 2023 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 2023-2024 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. Though drafted as amendments to preceding rules, these new amendments function as a coordinated and unitary fishery package for the 2023-2024 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 [in their] entirety: 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,

220-354-210 Puget Sound salmon—Beach seine—Open periods, and
220-301-030 Puget Sound Salmon Management and Catch Reporting Areas.

WDFW is proposing specific revisions to these rules to describe the seasons and dates for these fisheries for 2023; 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, and 77.12.047.

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: None.

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).

Explanation of exemptions: WDFW 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 2023-2024 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 3, 2023
Scott Bird
Rules Coordinator

OTS-4542.1

AMENDATORY SECTION (Amending WSR 19-15-051, filed 7/12/19, effective 8/12/19)

WAC 220-301-030 Puget Sound Salmon Management and Catch Reporting Areas. (1) **Area 4B** shall include those waters of Puget Sound easterly of a line projected from Bonilla Point (48°35'43.5"N, 124°42'59.7"W) on Vancouver Island to the Cape Flattery Light on Tatoosh Island (Light List No. 16145 Fl(2)20s112ft 14M, 48°23'31.2"N, 124°44'12.9"W), thence to the most westerly point on Cape Flattery (48°22'52.1"N, 124°43'54.3"W) and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River (48°17'16.1"N, 124°23'43.4"W).

(2) **Area 5** shall include those waters of Puget Sound easterly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River (48°17'16.1"N, 124°23'43.4"W) and westerly of a line projected true north from Low Point (48°09'38.9"N, 123°49'36.5"W).

(3) **Area 6** shall include those waters of Puget Sound easterly of a line projected from the Angeles Point (48°09'03.3"N, 123°33'11.6"W) to the Race Rock Light (Light List No. 16225 FlW10s118ft19M, 48°17'52.9"N, 123°31'53.1"W), northerly of a line projected from the New Dungeness Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to the Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W), westerly of a line projected from the Point Partridge Light (Light List No. 16400 Fl.W5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Smith Island Light (Light List No. 16375 Fl10s97ft.14M, 48°19'14.4"N, 122°49'51.4"W), and southerly of a line projected from the Smith Island Light (Light List No. 16375 Fl.10s97ft.14M, 48°19'14.4"N, 122°49'51.4"W) to Rosario Strait traffic separation lane entrance lighted Buoy R (Light List No. 16340 FLY25s6M"RA," 48°16'25.3"N, 123°06'34.6"W) to the Trial Island Light (Light List No. 16265 FlG5s93ft13M, 48°23'42.3"N, 123°18'18.6"W).

(4) **Area 6A** shall include those waters of Puget Sound easterly of a line projected from the Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Smith Island Light (Light List No. 16375 Fl10s97ft14M, 48°19'14.4"N, 122°49'51.4"W) to the northeasterly of the Lawson Reef Junction Lighted Bell Buoy (Light List No. 19320 RGF1(2+1)R6sBell, 48°24'03.3"N, 122°42'57.7"W) to the Initiative 77 marker on Fidalgo Island (48°25'14.2"N, 122°40'04.5"W) and westerly of a line projected from Reservation Head on Fidalgo Island (48°28'41.8"N, 122°39'28.1"W) to West Point on Whidbey Island (48°24'08.4"N, 122°39'46.1"W).

(5) **Area 6B** shall include those waters of Puget Sound southerly of a line projected from the New Dungeness Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to the Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W), westerly of a line projected from the Point Partridge Light (Light List No. 16400 FlW5s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Point Wilson Light (Light List No. 16475 AlRW5s51ft15M, 48°08'39.0"N, 122°45'17.2"W) and easterly of a line projected 154 degrees true from New Dungeness Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to Kulo Kala Point (48°07'13.1"N, 123°03'58.7"W).

(6) **Area 6C** shall include those waters of Puget Sound easterly of a line projected true north from Low Point (48°09'38.9"N, 123°49'36.5"W) and westerly of a line projected from the Angeles Point (48°09'03.3"N, 123°33'11.6"W) to the Race Rock Light (Light List No. 16225 FlW10s118ft19M).

(7) **Area 6D** shall include those waters of Puget Sound westerly of a line projected 155 degrees true from New Dungeness Spit Light (Light List No. 16335 FlW5s67ft18M, 48°10'54.3"N, 123°06'36.9"W) to Kulo Kala Point (48°07'13.1"N, 123°03'58.7"W).

(8) **Area 7** shall include those waters of Puget Sound southerly of a line projected true east-west through Sandy Point Light No. 2 (Light List No. 19880 Fl R 4s 16ft 4M "2," 48°47'12.4"N, 122°42'44.7"W), northerly of a line projected from the Trial Island Light (Light List No. 16265 FlG5s93ft13M, 48°23'42.3"N, 123°18'18.6"W) to the Rosario Strait traffic separation lane entrance lighted buoy R (Light List No. 16340 FLY2.5s6M"RA," 48°16'25.3"N, 123°06'34.6"W) to the Smith Island Light (Light List No. 16375 Fl10s97ft14M, 48°19'14.4"N, 122°49'51.4"W) to the Lawson Reef lighted buoy (RGF1(2+1)R6sBell, 48°24'03.3"N, 122°42'57.7"W) to the Initiative 77 marker on Fidalgo Island (48°25'14.2"N, 122°40'04.5"W), and westerly of a line projected from Sandy Point Light 2 (Light List No. 19880 FlR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W) to Point Migley (48°44'55.9"N, 122°42'54.3"W), thence along the eastern shore-line of Lummi Island to Carter Point (48°35'18.6"N, 122°38'35.0"W), thence to the most northerly tip of Vendovi Island (48°36'57.3"N, 122°36'39.1"W), thence to Clark Point (48°35'18.6"N, 122°38'35.1"W) on Guemes Island following the shoreline to Southeast Point on Guemes Island (48°31'43.4"N, 122°34'25.8"W), thence to March Point on Fidalgo Island (48°29'58.4"N, 122°33'55.8"W), excluding those waters of East Sound northerly of a line projected true west from Rosario Point on Orcas Island (48°38'36.5"N, 122°52'26.2"W).

(9) **Area 7A** shall include those waters of Puget Sound northerly of a line projected true east-west through Sandy Point Light 2 (Light List No. 19880 FlR4s16ft4M"2," 48°47'12.4"N, 122°42'44.7"W), terminating on the west at the International Boundary and on the east at the landfall on Sandy Point.

(10) **Area 7B** shall include those waters of Puget Sound westerly of a line projected 154 degrees true from Sandy Point Light 2 (Light List No. 19880 FLR4s16ft4M"2, " 48°47'12.4"N, 122°42'44.7"W) to landfall on Gooseberry Point (48°43'56.7"N, 122°40'22.0"W), easterly of a line projected from Sandy Point Light 2 (Light List No. 19880 FLR4s16ft4M"2, " 48°47'12.4"N, 122°42'44.7"W) to Point Migley on Lummi Island (48°44'55.9"N, 122°42'54.3"W), thence along the eastern shoreline of Lummi Island to Carter Point (48°35'18.6"N, 122°38'35.0"W), thence to the most northerly tip of Vendovi Island (48°36'57.3"N, 122°36'39.1"W), thence to Clark Point on Guemes Island (48°35'18.6"N, 122°38'35.1"W) following the shoreline to Southeast Point on Guemes Island (48°31'43.4"N, 122°34'25.8"W), thence to March Point on Fidalgo Island (48°29'58.4"N, 122°33'55.8"W), northerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel (48°27'29.1"N, 122°30'54.0"W) and westerly of a line projected from William Point Light (Light List No. 19018 FLG6s30ft5M"3, " 48°34'58.5"N, 122°33'37.8"W) on Samish Island 28 degrees true to Whiskey Rock (48°39'20.9"N, 122°30'12.5"W) on the north shore of Samish Bay and westerly of the Whatcom Creek Waterway, defined as a line projected approximately 14 degrees true from the southwest end of the Port of Bellingham North Terminal (48°44'38.6"N, 122°29'46.1"W) to the southernmost point of the dike surrounding the Georgia Pacific Treatment Pond (48°44'51.5"N, 122°29'38.6"W).

(11) **Area 7C** shall include those waters of Puget Sound easterly of a line projected from William Point Light 3 (Light List No. 19018 FLG6s30ft5M"3, " 48°34'58.5"N, 122°33'37.8"W) on Samish Island 28 degrees true to Whiskey Rock (48°39'20.9"N, 122°30'12.5"W) on the north shore of Samish Bay.

(12) **Area 7D** shall include those waters of Puget Sound easterly of a line projected 154 degrees true from Sandy Point Light 2 (Light List No. 19880 FLR4s16ft4M"2, " 48°47'12.4"N, 122°42'44.7"W) to landfall on Gooseberry Point (48°43'56.7"N, 122°40'22.0"W) and south of a line projected true east from Sandy Point Light 2 (Light List No. 19880 FLR4s16ft4M"2, " 48°47'12.4"N, 122°42'44.7"W) to landfall on Sandy Point (48°47'12.5"N, 122°42'36.1"W).

(13) **Area 7E** shall include those waters of Puget Sound within East Sound northerly of a line projected true west from Rosario Point (48°38'36.5"N, 122°52'26.2"W) on Orcas Island.

(14) **Area 8** shall include those waters of Puget Sound easterly of a line projected from West Point on Whidbey Island (48°24'08.4"N, 122°39'46.1"W) to Reservation Head on Fidalgo Island (48°28'41.8"N, 122°39'28.1"W), westerly of a line projected from East Point Light 3 (Light List No. 18620 FLG6s21ft6M, 48°05'49.1"N, 122°29'29.4"W) 340 degrees true to Camano Island Light 4 (Light List No. 18625 FLR4s15ft5M"4, " 48°07'57.4"N, 122°30'39.1"W) southerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel and northerly of the state highway 532 bridges between Camano Island and the mainland.

(15) **Area 8A** shall include those waters of Puget Sound easterly of a line projected from the East Point Light 3 (Light List No. 18620 FLG6s21ft6M, 48°05'49.1"N, 122°29'29.4"W) on Whidbey Island 340 degrees true to Camano Island Light 4 (Light List No. 18625 FLR4s15ft5M"4, " 48°07'57.4"N, 122°30'39.1"W), northerly of a line projected from the southern tip of Possession Point 110 degrees true to the shipwreck on the opposite shore (47°53'35.1"N, 122°19'42.8"W), southerly of the State Highway 532 bridges between Camano Island and the mainland excluding those waters of Area 8D.

(16) **Area 8D** shall include those waters of Puget Sound inside and easterly of a line projected 225 degrees from the pilings at old Bower's Resort to a point 2,000 feet offshore, thence northwesterly to a point 2,000 feet off Mission Beach, thence across the mouth of Tulalip Bay to a point 2,000 feet off Hermosa Point, thence northwesterly following a line 2,000 feet offshore to the intersection with a line projected 233 degrees from the fishing boundary marker on the shore at the slide north of Tulalip Bay.

(17) **Area 9** shall include those waters of Puget Sound southerly and easterly of a line projected from the Point Partridge Light (Light List No. 16400 F15s105ft13M, 48°13'28.8"N, 122°46'09.9"W) to the Point Wilson Light (Light List No. 16475 A1RW5s51ft15M, 48°08'39.0"N, 122°45'17.2"W), northerly of the Hood Canal Bridge, northerly of a line projected true west from the shoreward end of Point Julia (47°51'17.3"N, 122°34'35.5"W) to the mainland in the community of Port Gamble, excluding those on-reservation waters of Hood Canal north of Port Gamble Bay to the marker at the north end of the Port Gamble Indian Reservation (47°52'04.3"N, 122°34'20.9"W), southerly of a line projected from the southern tip of Possession Point 110 degrees true to the shipwreck (47°53'35.1"N, 122°19'42.8"W) on the opposite shore and northerly of a line projected from the Apple Cove Point Light (Light List No. 16675 F1W4s18ft6M, 47°48'53.5"N, 122°28'54.7"W) to the Edmonds South Breakwater Light (Light List No. 16705 F1Y4s18ftPriv, 47°48'25.0"N, 122°23'43.0"W) at Edwards Point.

(18) **Area 9A** shall include those waters of Puget Sound known as Port Gamble Bay southerly of a line projected true west from the shoreward end of the Point Julia (47°51'17.3"N, 122°34'35.5"W) to the mainland in the community of Port Gamble and those on-reservation waters of Hood Canal north of Port Gamble Bay to the marker at the north end of the Port Gamble Indian Reservation (47°52'04.3"N, 122°34'20.9"W).

(19) **Area 10** shall include those waters of Puget Sound southerly of a line projected from the Apple Cove Point Light (Light List No. 16675 F1W4s18ft6M, 47°48'53.5"N, 122°28'54.7"W) to the Edmonds South Breakwater light (~~(Light List No. 16675 F1W4s18ft6M, 47°48'53.5"N, 122°28'54.7"W)~~) (Light List No. 16705 F1Y4s18ftPriv, 47°48'25.0"N, 122°23'43.0"W), westerly of a line projected 43 degrees true from the Shilshole Bay Light 8 (Light List No. 18155 F1R4s15ft4M"8, "47°40'17.2"N, 122°24'31.2"W) to landfall on the northeastern shore of the Shilshole Bay Entrance Range (47°40'20.7"N, 122°24'25.4"W), westerly of a line projected 185 degrees true from the southwest corner of Pier 91 (47°37'35.1"N, 122°23'01.2"W) through the Duwamish Head Light (Light List No. 16910 F1W2.5s25ft10M, 47°35'55.8"N, 122°23'16.5"W) to landfall on Duwamish Head (47°35'40.0"N, 122°23'19.2"W), northerly of a true east-west line projected through the Point Vashon Light (Light List No. 17100 F1W4s17ft7M, 47°30'49.3"N, 122°28'23.4"W) from Southworth (47°30'49.2"N, 122°29'57.0"W), to landfall south of Brace Point (47°30'49.4"N, 122°23'44.2"W), easterly of a line projected from Orchard Point (47°33'55.4"N, 122°31'56"W) to Beans Point (47°34'28.8"N, 122°31'20.4"W) on Bainbridge Island, and northerly and easterly of a line projected true west from Agate Point (47°43'15.7"N, 122°33'12.2"W) on Bainbridge Island to the mainland (47°43'15.7"N, 122°33'41.1"W).

(20) **Area 10A** shall include those waters of Puget Sound easterly of a line projected 185 degrees true from the southwest corner of Pier 91 (47°37'35.1"N, 122°23'01.2"W) through the Duwamish Head Light

(Light List No. 16910 F1W2.5s25ft10M, 47°35'55.8"N, 122°23'16.5"W) to landfall on Duwamish Head (47°35'40.0"N, 122°23'19.2"W).

(21) **Area 10C** shall include those waters of Lake Washington southerly of the Evergreen Point Floating Bridge.

(22) **Area 10D** shall include those waters of the Sammamish River south of the State Highway 908 Bridge and Lake Sammamish.

(23) **Area 10E** shall include those waters of Puget Sound westerly of a line projected from Orchard Point (47°33'55.4"N, 122°31'56"W) to Beans Point (47°34'28.8"N, 122°31'20.4"W) on Bainbridge Island and southerly and westerly of a line projected true west from Agate Point (47°43'15.7"N, 122°33'12.2"W) on Bainbridge Island to the mainland (47°43'15.7"N, 122°33'41.1"W).

(24) **Area 10F** shall include those waters of Puget Sound easterly a line projected 43 degrees true from the Shilshole Bay Light 8 (Light List No. 18155 F1R4s15ft4M"8," 47°40'17.2"N, 122°24'31.2"W) to landfall on the North Eastern shore of the Shilshole Bay Entrance Range (47°40'20.7"N, 122°24'25.4"W) and those waters of the Lake Washington Ship Canal westerly of a line projected true south from Webster Point (47°38'53.0"N, 122°16'37.1"W) to the Evergreen Point Floating Bridge including the waters of Salmon Bay, the Lake Washington Ship Canal, Lake Union and Portage Bay.

(25) **Area 10G** shall include those waters of Lake Washington northerly of the Evergreen Point Floating Bridge, easterly of a line projected from Webster Point (47°38'53.0"N, 122°16'37.1"W) true south to the Evergreen Point Floating Bridge and those waters of the Sammamish River north of the State Highway 908 Bridge.

(26) **Area 11** shall include those waters of Puget Sound southerly of a true east-west line projected through the Point Vashon Light (Light List No. 17100 F1W4s17ft7M), from Southworth (47°30'49.2"N, 122°29'57.0"W) to landfall south of Brace Point (47°30'49.4"N, 122°23'44.2"W), northerly of a line projected 259 degrees true from Browns Point (47°18'20.3"N, 122°26'39.4"W) to the point of landfall on the opposite shore of Commencement Bay (47°17'51.8"N, 122°30'04.5"W), and northerly of the Tacoma Narrows Bridge.

(27) **Area 11A** shall include those waters of Puget Sound southerly of a line projected 259 degrees true from Browns Point (47°18'20.3"N, 122°26'39.4"W) to the point of landfall on the opposite shore of Commencement Bay (47°17'51.8"N, 122°30'04.5"W).

(28) **Area 12** shall include those waters of Puget Sound southerly of the site of the Hood Canal Bridge and northerly and easterly of a line projected from the Tskutsko Point Light (Light List No. 17865 F14s15ft5MRaRef, 47°41'29.3"N, 122°49'59.1"W) to Misery Point (47°39'18.3"N, 122°49'46.5"W).

(29) **Area 12A** shall include those waters of Puget Sound northerly of a line projected from Pulali Point true east to the mainland.

(30) **Area 12B** shall include those waters of Puget Sound southerly of a line projected true east from Pulali Point (47°44'15.3"N, 122°52'5.9"W) to landfall on Toandos Peninsula (47°44'09.9"N, 122°48'23.1"W), northerly of a line projected true east from Ayock Point (47°30'25.8"N, 123°03'15.8"W) to landfall on the Kitsap (Great) Peninsula (47°30'25.8"N, 123°01'53.2"W), and westerly of a line projected from the Tskutsko Point Light (Light List No. 17865 F14s15ft5MRaRef, 47°41'29.3"N, 122°49'59.1"W) to Misery Point (47°39'18.3"N, 122°49'46.5"W).

(31) **Area 12C** shall include those waters of Puget Sound southerly of a line projected true east from Ayock Point (47°30'25.8"N, 123°31'15.7"W) to landfall on the Kitsap (Great) Peninsula

(47°30'25.8"N, 123°01'53.2"W) and northerly and westerly of a line projected from Ayres Point (47°22'26.9"N, 123°06'44.5"W) to the Union Boat Launch (47°21'27.5"N, 123°6'1.9"W).

(32) **Area 12D** shall include those waters of Puget Sound easterly of a line projected from Ayres Point (47°22'26.9"N, 123°06'44.5"W) to the Union Boat Launch (47°21'27.5"N, 123°06'01.9"W).

(33) **Area 13** shall include those waters of Puget Sound southerly of the Tacoma Narrows Bridge and a line projected from Green Point (47°16'55.2"N, 122°41'41.8"W) to Penrose Point (47°15'53.6"N, 122°44'11.5"W) and northerly and easterly of a line projected from the Devil's Head Light (Light List No. 17365 FLR6s164M"4, " 47°09'58.9"N, 122°45'53.3"W) to Treble Point (47°09'09.6"N, 122°44'31.3"W), thence through the Nisqually Flats Light 3 (Light List No. 17360 FLG4s15ft4M"3") to landfall (47°06'40.7"N, 122°45'08.8"W) and westerly of the railroad trestle at the mouth of Chambers Bay.

(34) **Area 13A** shall include those waters of Puget Sound northerly of a line projected from Green Point (47°16'55.2"N, 122°41'41.8"W) to Penrose Point (47°15'53.6"N, 122°44'11.5"W).

(35) **Area 13C** shall include those waters of Puget Sound easterly of the railroad trestle at the mouth of Chambers Bay.

(36) **Area 13D** shall include those waters of Puget Sound westerly of a line projected from the Devil's Head Light (Light List No. 17365 FLR6s164M"4, " 47°09'58.9"N, 122°45'53.3"W) to Treble Point (47°09'09.6"N, 122°44'31.3"W), thence through the Nisqually Flats Light 3 (Light List No. 17360 FLG4s15ft4M"3, " 47°07'15"N, 122°45'0.1"W) to landfall (47°06'40.7"N, 122°45'08.8"W), northerly of a line projected from Johnson Point (47°10'35.7"N, 122°49'13.2"W) to Dickenson Point (47°09'54.4"N, 122°51'06.4"W), northerly of a line projected 291 degrees true from Dofflemeyer Point Light (Light List No. 17400 FL4s30ft7M, 47°08'25.8"N, 122°54'26.2"W) through Cooper Point (47°08'44.2"N, 122°55'33.4"W), to the southeastern shore of Hunter Point (47°8'55.9"N, 122°56'18.1"W), easterly of a line projected 005 degrees true from the northern tip of Steamboat Island (47°11'12.3"N, 122°56'20.6"W) to Hungerford Point (47°12'18.8"N, 122°56'11.5"W) and southerly of a line projected true east-west from 47°18'53.5"N, 122°50'32.9"W through the southern tip of Stretch Island to landfall on the easterly shore of the Key Peninsula (47°18'53.5"N, 122°47'35"W).

(37) **Area 13E** shall include those waters of Puget Sound southerly of a line projected from Johnson Point (47°10'35.7"N, 122°49'13.2"W) to Dickenson Point (47°09'54.4"N, 122°51'06.4"W).

(38) **Area 13F** shall include those waters of Puget Sound southerly of a line projected from Dofflemeyer Point Light (Light List No. 17400 FL4s30ft7M, 47°08'25.8"N, 122°54'26.2"W) to Cooper Point (47°08'44.2"N, 122°55'33.4"W).

(39) **Area 13G** shall include those waters of Puget Sound southerly of a line projected 291 degrees true from Cooper Point (47°08'44.2"N, 122°55'33.4"W) to the southeastern shore of Hunter Point (47°8'55.9"N, 122°56'18.1"W).

(40) **Area 13H** shall include those waters of Puget Sound south-westerly of a line projected 005 degrees true from the northern tip of Steamboat Island (47°11'12.3"N, 122°56'20.6"W) to Hungerford Point (47°12'18.8"N, 122°56'11.5"W) and those waters easterly of a line projected 064 degrees true from Kamilche Point (47°09'08.3"N, 123°01'07.5"W) to the opposite shore (47°09'14"N, 123°00'49.3"W).

(41) **Area 13I** shall include those waters of Puget Sound south-westerly of a line projected 064 degrees true from Kamilche Point

(47°09'08.3"N, 123°01'07.5"W) to the opposite shore (47°09'14"N, 123°00'49.3"W).

(42) **Area 13J** shall include those waters of Puget Sound, Hammersley Inlet and Oakland Bay, westerly of a line projected from the Arcadia Point Boat Launch (47°11'51.4"N, 122°56'18.5"W) to Hungerford Point (47°12'18.8"N, 122°56'11.5"W).

(43) **Area 13K** shall include those waters of Puget Sound northerly of a line projected true east-west from 47°18'53.5"N, 122°50'32.9"W through the southern tip of Stretch Island to landfall on the easterly shore of the Key Peninsula (47°18'53.5"N, 122°47'35"W).

[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), § 220-301-030, 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), § 220-301-030, filed 9/4/18, effective 10/5/18. 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 § 220-301-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 95-13-056 (Order 95-75), § 220-22-030, filed 6/16/95, effective 7/17/95; WSR 94-15-001 (Order 94-62), § 220-22-030, filed 7/6/94, effective 8/6/94; WSR 90-13-025 (Order 90-49), § 220-22-030, filed 6/11/90, effective 7/12/90; WSR 89-13-004 (Order 89-44), § 220-22-030, filed 6/8/89; WSR 88-14-133 (Order 88-48), § 220-22-030, filed 7/6/88; WSR 87-15-059 (Order 87-72), § 220-22-030, filed 7/14/87; WSR 85-13-032 (Order 85-60), § 220-22-030, filed 6/12/85; WSR 84-13-078 (Order 84-53), § 220-22-030, filed 6/21/84; WSR 82-15-040 (Order 82-83), § 220-22-030, filed 7/15/82; WSR 81-18-017 (Order 81-101), § 220-22-030, filed 8/25/81; WSR 80-04-070 (Order 80-17), § 220-22-030, filed 3/26/80; WSR 79-07-045 (Order 79-42), § 220-22-030, filed 6/22/79; WSR 78-05-018 (Order 78-16), § 220-22-030, filed 4/13/78; Order 77-66, § 220-22-030, filed 8/5/77; Order 77-14, § 220-22-030, filed 4/15/77; Order 76-35, § 220-22-030, filed 5/11/76.]

OTS-4541.2

AMENDATORY SECTION (Amending WSR 22-14-052, filed 6/29/22, effective 7/30/22)

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 F1R4s4M"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 F1W6s57ft7MHorn(Bl(2)30s, 48°27'27.6"N, 122°42'59.3"W) on the westernmost point of Burrows Island, thence to the southwesternmost 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 southwesternmost 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 southernmost 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)~~) 180 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 east of Post Point (~~((48°43'18"N, 122°30'42"W))~~) (48°43'18.2"N, 122°30'41.5"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 Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

(2) Additional Chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point (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 River.

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 22-14-052 (Order 22-115), § 220-354-080, filed 6/29/22, effective 7/30/22; 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 Authority: 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. Statutory 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, effective 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 Authority: 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 22-14-052, filed 6/29/22, effective 7/30/22)

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 | - 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, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11 |
| 7B: | 6AM - 8PM | - ((8/10, 8/17, 8/24, 8/25, 8/31) 8/16, 8/23, 8/30, 8/31, 9/6 |
| | 7AM - 7PM | - ((9/5, 9/7, 9/9) 9/11, 9/13, 9/15 |

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).

| AREA | TIME | DATE |
|------|-------------------|--|
| 7B: | 7AM - 7PM | - ((9/12, 9/14, 9/16) 9/18, 9/20, 9/22) |
| | ((7AM-9/18 | - 6PM-10/22)) |
| | <u>7AM - 9/24</u> | = <u>6PM - 10/28</u> |
| | ((7AM- 6PM | - 10/24 - 10/28)) |
| | 7AM - 6PM | - ((10/31 - 11/4)) <u>10/30 - 11/3</u> |
| | 7AM - 5PM | - ((11/7 - 11/11)) <u>11/6 - 11/10</u> |
| | 7AM - 5PM | - ((11/14 - 11/18)) <u>11/13 - 11/17</u> |
| | 7AM - 5PM | - ((11/21 - 11/25)) <u>11/20 - 11/24</u> |
| | 7AM - 5PM | - ((11/28 - 12/2)) <u>11/27 - 12/1</u> |
| | <u>7AM - 5PM</u> | = <u>12/4 - 12/8</u> |
| 7C: | 6AM - 8PM | - ((8/10, 8/17, 8/24, 8/25, 8/31) <u>8/16, 8/23, 8/30, 8/31, 9/6</u> |
| | 7AM - 7PM | - ((9/5, 9/7, 9/9)) <u>9/11, 9/13, 9/15</u> |

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 Squalicum Harbor to land fall east of Post Point may close per in-season management needs.

| | | |
|----------------|------------------|--|
| 8: | Closed | |
| 8A: | Closed | |
| 8D: | Closed | |
| <u>10, 11:</u> | <u>6AM - 8PM</u> | = <u>8/22, 8/23, 8/24, 8/29, 8/30, 9/5, 9/6</u> |
| ((10, 11:)) | 7AM - 6PM | - <u>10/20, 10/26, 11/2</u> |
| | <u>7AM - 5PM</u> | = <u>11/3, 11/9</u> |
| | | Additional October dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase). |
| 12, 12B: | 7AM - 6PM | - ((10/11, 10/18, 10/26, 11/1,)) <u>10/20, 10/26, 11/2, 11/3</u> |
| | 7AM - 5PM | - ((11/8)) <u>11/9, 11/16, 11/23</u> |
| ((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:)) |
| <u>12C:</u> | Closed | |

Note: ((In Area 10 during any open period occurring in August or September,)) Areas 10 pink directed purse seine fisheries, adjusted hours 7AM-7PM, limited participation to 5 purse seine and 5 gillnet, observers required, use of recovery box required. Purse seines must brail. Retention of Chinook, coho, and chum is prohibited for all gears. 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).

Note: Areas 10 and 11 chum directed fisheries may be subject to limited participation with daily per vessel catch limits. The number of purse seine vessels and daily per vessel catch limits will be determined by in-season management. Observers are required for all participating purse seine vessels. This may also include requiring observers aboard tender vessels during offloads.

(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) Sockeye - At all times in Areas 7, 7A, 7B, 7C, 8, 8A, 8D, 10, 11, 12, 12B, and 12C. Sockeye retention may be allowed in Areas 7 and 7A if authorized under the Fraser Panel.

(e) 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 22-14-052 (Order 22-115), § 220-354-120, filed 6/29/22, effective 7/30/22; 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, ef-

fective 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 22-14-052, filed 6/29/22, effective 7/30/22)

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)) 9/25, 9/26, 9/27, 9/28, 9/29, ((9/30)) 10/2, 10/3, 10/4, 10/5, 10/6, ((10/7)) 10/9, 10/10, 10/11, 10/12, 10/13, ((10/14)) 10/16, 10/17, 10/18, 10/19, 10/20, ((10/21)) 10/23, 10/24, 10/25, 10/26, 10/27, ((10/28)) 10/30, 10/31, 11/1, 11/2, 11/3, ((11/4)) 11/6, 11/7, 11/8, 11/9, 11/10 | 5" |
| 7, 7A: | 7AM - Midnight | 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, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11 | 6 1/4" |
| 7B: | 7PM - 8AM | NIGHTLY ((8/7, 8/8, 8/9)) 8/13, 8/14, 8/15, ((8/16, 8/17)) 8/20, 8/21, 8/22, 8/23, ((8/24)) 8/27, 8/28, 8/29, 8/30 | 7" |
| | 7AM ((8/28)) 9/3 - 7AM ((9/2)) 9/7 | | 5" |
| | 7AM ((9/4)) 9/10 - 7AM ((9/9)) 9/14 | | 5" |
| | 7AM ((9/11)) 9/17 - 7AM ((9/16)) 9/21 | | 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 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.

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.

| AREA | TIME | DATE(S) | MINIMUM MESH |
|------|---|--|--------------|
| | 7AM ((9/18)) <u>9/24</u> | - Midnight ((10/22)) <u>10/28</u> | 5" |
| | 7AM ((10/24)) <u>10/30</u> | - 4PM ((10/28)) <u>11/3</u> | 6 1/4" |
| | 7AM ((10/31)) <u>11/6</u> | - 4PM ((11/4)) <u>11/10</u> | |
| | 7AM ((11/7)) <u>11/13</u> | - 4PM ((11/11)) <u>11/17</u> | |
| | 7AM ((11/14)) <u>11/20</u> | - 4PM ((11/18)) <u>11/24</u> | |
| | 7AM ((11/21)) <u>11/27</u> | - 4PM ((11/25)) <u>12/1</u> | |
| | 7AM ((11/28)) <u>12/4</u> | - 4PM ((12/2)) <u>12/8</u> | |
| 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)) <u>8/13, 8/14, 8/15, 8/20, 8/21, 8/22, 8/23, 8/27, 8/28, 8/29, 8/30</u> | 7" |
| | 7AM ((8/28)) <u>9/3</u> | - 7AM ((9/2)) <u>9/7</u> | 7" |
| | 7AM ((9/4)) <u>9/10</u> | - 7AM ((9/9)) <u>9/14</u> | 7" |

Note: In Area 7C the minimum mesh size is 7" through ~~((9/9))~~ 9/14.

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 Squalicum Harbor to land fall east of Post Point may close per in-season management needs.

| | | | | |
|----|-----|--------|--------|----|
| 8: | 5AM | - 11PM | Closed | 5" |
|----|-----|--------|--------|----|

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)) NIGHTLY <u>9/17, 9/21, 9/24, 9/28, 10/1, 10/5, 10/8, 10/12</u> | 5" |
| | 6PM <u>9/18</u> | - 8AM <u>9/21</u> | ((Closed)) | 5" |
| | 6PM <u>9/25</u> | - 8AM <u>9/28</u> | ((Closed)) | 5" |
| | 6PM <u>10/2</u> | - 8AM <u>10/5</u> | ((Closed)) | 5" |
| | <u>6PM 10/9</u> | = <u>8AM 10/12</u> | | |
| | 5PM | - 9AM | ((Closed)) NIGHTLY <u>10/15, 10/19, 10/22, 10/26</u> | 5" |
| | 5PM <u>10/16</u> | - 9AM <u>10/19</u> | ((Closed)) | 5" |
| | 5PM <u>10/23</u> | - 9AM <u>10/26</u> | ((Closed)) | 5" |
| | 5PM | - 9AM | Closed | 5" |
| | 4PM | - 8AM | Closed | 5" |
| | 4PM | - 8AM | Closed | 5" |
| | 6AM | - 6PM | Closed | 6 1/4" |
| | 7AM | - 6PM | Closed | 6 1/4" |

9A: Skiff gillnet only, definition WAC 220-350-170 and lawful gear description WAC 220-354-140.

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.

| | | | | |
|------------------------|------------|--------------|--|--------|
| <u>10, 11:</u> | <u>7PM</u> | = <u>8AM</u> | <u>8/22, 8/23, 8/24, 8/29, 8/30, 9/5, 9/6</u> | |
| ((10, 11:)) | 5PM | - 9AM | ((Additional October dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase-))) <u>10/18, 10/22, 10/24, 10/29, 10/31</u> | 6 1/4" |
| | <u>4PM</u> | = <u>8AM</u> | <u>11/5, 11/7</u> | |

| AREA | TIME | DATE(S) | MINIMUM MESH |
|---|-----------|--|--------------|
| <p>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.</p> <p><u>Note: Areas 10 and 11 chum directed fisheries may be subject to limited participation with daily per vessel catch limits. The number of vessels per gear type and daily per vessel catch limits will be determined by in-season management. Observers may be required for gillnets, including observers aboard tender vessels during offloads.</u></p> | | | |
| 12A: Skiff gillnet only, definition WAC 220-350-170 and lawful gear description WAC 220-354-140. | 7AM - 7PM | Closed. | 5" |
| <p>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.</p> | | | |
| 12, 12B: | 7AM - 8PM | ((10/13, 10/17, 10/19, 10/24, 10/27, 10/31, 11/2)) 10/23, 10/25, 10/30, 11/1, 11/3 | 6 1/4" |
| | 7AM - 7PM | ((11/7, 11/9)) 11/6, 11/8 | 6 1/4" |
| | 6AM - 6PM | ((Additional November dates (determined per agreement with tribal co-managers in-season if harvestable surplus of salmon increase:)) 11/13, 11/16, 11/21 | 6 1/4" |
| 12C: | 6AM - 6PM | ((10/31, 11/2, 11/4, 11/7)) Closed | 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 22-14-052 (Order 22-115), § 220-354-160, filed 6/29/22, effective 7/30/22; 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 22-14-052, filed 6/29/22, effective 7/30/22)

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 | (948-11/5) 9/17-11/11 |

(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)) P.O. Box 43200, Olympia, WA
((98501-1091)) 98504.

(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 22-14-052 (Order 22-115), § 220-354-180, filed 6/29/22, effective 7/30/22; 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 22-14-052, filed 6/29/22, effective 7/30/22)

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)) 8/28, 8/29, 8/30, 8/31, 9/1, ((9/2)) 9/4, 9/5, 9/6, 9/7, 9/8, ((9/9)) 9/11, 9/12, 9/13, 9/14, 9/15, ((9/16)) 9/18, 9/19, 9/20, 9/21, 9/22, ((9/23)) 9/25, 9/26, 9/27, 9/28, 9/29, ((9/30)) 10/2, 10/3, 10/4, 10/5, 10/6 |
| 12C, Hoodspout Hatchery Zone: | 7AM - 7PM | ((7/25, 8/1, 8/8, 8/15, 8/22, 8/29)) 7/27, 8/3, 8/10, 8/17, 8/24, 8/31, 9/7, 9/14 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.
- (c) Sockeye salmon - At all times in Areas 12, 12A, 12B, and 12C.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.045 [77.04.055], and 77.12.047. WSR 22-14-052 (Order 22-115), § 220-354-210, filed 6/29/22, effective 7/30/22; 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.]

WSR 23-10-090
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-05—Filed May 3, 2023, 9:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-03-054 on January 10, 2023.

Title of Rule and Other Identifying Information: 2023 North of Falcon recreational fisheries rule making. The Washington department of fish and wildlife (WDFW) is considering amendments to current recreational fishing rules resulting from stakeholder recommendations made during North of Falcon meetings; 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, 220-312-050 Freshwater exceptions to statewide rules—Eastside, 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.

Hearing Location(s): On June 8, 2023, at 2:00 p.m., Zoom meeting. Register in advance for this meeting <https://us02web.zoom.us/join/zoom-join?meeting=register/tZwtdu-upzgrH9NgoqSqwS-W2mTTvVMrXKlK>. After registering, you will receive a confirmation email containing information about joining the meeting.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: Scott Bird, WDFW rules coordinator, public comment website <https://publicinput.com/nof2023-recreational>, email nof2023-recreational@PublicInput.com, voicemail comments 855-925-2801, project code 6675, by June 8, 2023.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 711, email Title6@dfw.wa.gov, <https://wdfw.wa.gov/accessibility/requests-accommodation>, by June 8, 2023.

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 2023, and provide the season schedule for the 2023 recreational fisheries statewide.

These proposed rules regulate the recreational salmon fisheries statewide and are part of a comprehensive rule-making package to implement the new 2023-2024 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 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. Though drafted as amendments to preceding rules, these new amendments function as a coordinated and unitary fishery package for the 2023-2024 fishery season, and thus substantively replace prior years' recreational salmon fisheries. Comments should be considered with that understanding.

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,
220-312-050 Freshwater exceptions to statewide rules—Eastside,
220-312-060 Freshwater exceptions to statewide rules—Columbia River,
220-313-060 Puget Sound salmon—Saltwater seasons and daily limits,
220-313-070 Coastal salmon—Saltwater seasons and daily limits.

WDFW is proposing specific revisions to these rules to describe the seasons and dates for these fisheries for 2023. 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 statewide 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.

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.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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).

Explanation of exemptions: WDFW 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 indirectly benefit from the state's decision to open such fisheries

Scope of exemption for rule proposal:

Is fully exempt.

May 3, 2023
Scott Bird
Rules Coordinator

OTS-4521.1

AMENDATORY SECTION (Amending WSR 22-14-054, filed 6/29/22, effective 7/30/22)

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 (~~October 31~~) November 30:
- (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~~).
- (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~~) March 31.
- (ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through (~~April 30~~) March 31.
- (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 August 31:

(I) Daily limit 4; up to 2 may be adults.

(II) Release wild adult Chinook and wild adult coho.

(B) Open September 1 through September 15:

(I) Daily limit 3; up to ((±)) 2 may be ((~~an~~)) adults, of which 1 may be a wild Chinook.

(II) Release wild adult coho and sockeye.

(C) Open September 16 through December 15:

(I) Daily limit 3; up to ((±)) 2 may be ((~~an~~)) adults, of which 1 may be a wild Chinook.

(II) Release sockeye.

(d) From Highway 101 Bridge to Olympic National Park boundary:

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

(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~~)) March 31.

(ii) It is unlawful to use bait the Saturday before Memorial Day through ((~~April 30~~)) March 31.

(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 August 31:

(I) Daily limit 4; up to 2 may be adults.

(II) Release wild adult Chinook and wild adult coho.

(B) Open September 1 through September 15:

(I) Daily limit 3; up to ((±)) 2 may be ((~~an~~)) adults, of which 1 may be a wild Chinook.

(II) Release wild adult coho and sockeye.

(C) Open September 16 through December 15:

(I) Daily limit 3; up to ((±)) 2 may be ((~~an~~)) adults, of which 1 may be a wild Chinook.

(II) Release sockeye.

(d) From the Highway 101 Bridge to the forks:

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

(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 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 15((+)).
- (I) Daily limit 6.
- (II) Release adult salmon.
- (B) Open September 16 through ((October 31+)) November 30.
- (I) Daily limit 6; up to 2 may be adults.
- (II) Release adult Chinook.
- (C) ~~((Open 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 Fuller Bridge (Keys Road) to South Elma Bridge (Wakefield Road) including all channels, sloughs, and interconnected waterways:
- (i) ~~((All species))~~ August 1 through November 30: 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 15:
 - (I) Daily limit 6.
 - (II) Release adult salmon.
 - (B) September 16 through September 30: Closed.
 - (C) Open October 1 (~~through October 31~~) November 30.
 - (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 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~~) November 30.
 - (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~~).
- (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.
- (iii) August 16 through November 30: Single-point barbless hooks are required.

- (iv) Salmon:
 - (A) Open October 1 through (~~October 31~~) November 30.
 - (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 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 November 30:

(B) Daily limit 3; up to ((±)) 2 may be ((~~an~~)) adults, of which up to 1 may be a Chinook.

(d) From the Snahapish River upstream:

(i) Open the Saturday before Memorial Day through 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) Single-point barbless hooks required August 16 through November 30.

(v) Salmon:

(A) Open September 1 through (~~October 31~~) November 30:

(I) Daily limit 6; up to 2 may be adults.

(II) Release adult Chinook.

(B) Open (~~November~~) December 1 through December 31:

(I) Daily limit 6; up to 1 may be an adult.

(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 (~~April 30~~) March 31.

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

- (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 August 31:
 - (I) Daily limit 4; up to 2 may be adults.
 - (II) Release wild adult Chinook and wild adult coho.
 - (B) Open September 1 through 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~~) March 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.
 - (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 (~~October 31~~) November 30:

- (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 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):** Closed waters.
 - ~~((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.~~
 - ~~(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~~) March 31 and June 1 through August 31.

(ii) Open June 1 through August 31 and September 16 through (~~April 15~~) March 31:

(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)) 4; up to ((4)) 2 may be ((an)) adults, of which 1 may be a Chinook.

(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~~) March 31.

(ii) It is unlawful to use bait June 1 through October 15 and December 1 through (~~April 15~~) March 31.

(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)) 4; up to ((1 adult may be retained)) 2 may be adults, of which 1 may be a Chinook.

(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~~) March 31.

(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~~) March 31.

(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 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:

(A) Open October 1 through (~~October 31~~) November 30:

(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:

(A) Open October 1 through (~~October 31~~) November 30:

(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 coho and wild Chinook.
 - (B) Open October 1 through October 31:
 - (I) Daily limit 6; up to 2 may be 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 coho and wild Chinook.
 - (B) Open October 1 through October 31:
 - (I) Daily limit 6; up to 2 may be 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 September 1 through (~~October 31~~) November 30:

(A) Daily limit 6; up to 2 may be adults.

(B) Release adult Chinook.

(ii) Open (~~November~~) December 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:

(i) Open October 1 through (~~October 31~~) November 30:

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

(f) Salmon:

(i) Open September 1 through (~~October 31~~) November 30:

(A) Daily limit 6; up to 2 may be adults.

(B) Release adult Chinook.

(ii) Open (~~November~~) December 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 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
- (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 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
 - (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~~) October 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 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 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
 - (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 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
 - (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 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
 - (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 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
 - (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:
 - (i) Anti-snagging rule (~~and~~).
 - (ii) 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 January 31:
 - (B) Daily limit 6; up to 2 may be 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 January 31:
 - (B) Daily limit 6; up to 2 may be adults, of which 1 may be a wild coho.
 - (C) Release wild Chinook.
 - (b) From the bridge on Nemah Valley Road upstream to approximately 1.66 miles to the Hancock property line:
 - (i) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

- (iii) 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~~) fishing boundary sign (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 may be adults, of which 1 may be a wild coho.
 - (B) Release wild Chinook.
 - (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~~) fishing boundary sign (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 January 31.
 - (ii) Daily limit 6; up to 2 may be 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 (~~October 31~~) November 30:

(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 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) Open 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)~~) May 1 through March 31, except closed Mondays and Tuesdays (~~(August-29)~~) September 4 through October (~~(11)~~) 17. Also closed September 27, October 4, and 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 March 31 and May 1 through August 31:

(A) Daily limit 4; up to 2 may be adults (~~(may be retained)~~).

(B) Release sockeye, wild adult Chinook, and wild adult coho.

(ii) Open September 1 through September 15:

(A) Daily limit 6; up to (~~(3)~~) 4 may be 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)~~) 4 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)~~) up to 2 may be 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 November 30:

(ii) Daily limit 6; up to ((±)) 2 may be ((a#)) adults, of which up to 1 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) August 1 through September 30: Selective gear rules.

(iii) 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))~~ (iv) Salmon:

(A) Open October 1 through ~~((October 31))~~ November 30:

(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:

(A) Open October 1 through (~~October 31~~) November 30:

(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:
 - (i) Open October 16 through (~~October 31~~) November 30:
 - (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 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 August 31 and February 16 through ~~((April-30))~~ March 31.

(ii) Game fish: Open ~~((year-round))~~ May 1 through March 31: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iii) Salmon:

(A) Open February 1 through March 31 and May 1 through August 31:

(I) Daily limit 4; up to 2 may be adults (~~((may be retained))~~).

(II) Release sockeye, wild adult Chinook and wild adult coho.

(B) Open September 1 through September 15:

(I) Daily limit 6; up to ~~((3))~~ 4 may be 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))~~ 4 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 ~~((April-30))~~ March 31.

(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 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 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) **Soes 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: Kookanee: 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:

(A) Open October 1 through (~~October 31~~) November 30:

(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: Open August 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 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: Open August 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.

(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: Open August 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 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: Open August 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.

(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: Open August 16 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 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: 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.

(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 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: Open August 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.

(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:

(A) Open October 1 through (~~October 31~~) November 30:

(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) August 1 through September 30: Selective gear rules.

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

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

~~((iv))~~ (v) Salmon:

(A) Open October 1 through ~~((October 31))~~ November 30:

(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, and 77.12.047. WSR 22-14-054 (Order 22-114), § 220-312-020, filed 6/29/22, effective 7/30/22. 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-4529.1

AMENDATORY SECTION (Amending WSR 22-14-054, filed 6/29/22, effective 7/30/22)

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: State-wide 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:))~~ 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))~~ (ii) 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 salmon may be retained.)~~) Release all salmon other than hatchery coho.

(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 salmon may be retained.)~~) Release all salmon other than hatchery coho.

(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 salmon may be retained.)~~) Release all salmon other than hatchery coho.

(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: 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 salmon may be retained.~~) Release all salmon other than hatchery coho.
- (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))~~ (ii) 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:))~~ Open year-round: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- ~~((iv))~~ (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.

- (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))~~ Fisher Hill Bridge to 400 feet above #5 fishway (Lyle Falls 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 (Lyle Falls fishway) 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:
 - (I) Trout: Daily limit 2; minimum length 14 inches.
 - ~~((iii))~~ (II) 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))~~ (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.
 - (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)) 1 may be a 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.

(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)) 1 may be a 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.

(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)) 1 may be a 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.

(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)) 1 may be a 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)) 1 may be a 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 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 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 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, and 77.12.047. WSR 22-14-054 (Order 22-114), § 220-312-030, filed 6/29/22,

effective 7/30/22. 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-4538.3

AMENDATORY SECTION (Amending WSR 22-14-054, filed 6/29/22, effective 7/30/22)

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 Belfair-Bremerton Highway (S.R. 3):

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

(ii) Trout: No minimum length.

(3) **AKL Pond (King County):** Game fish: Statewide minimum length/daily limit, except:

- (a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.
- (b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.
- (c) Channel catfish: Daily limit 10; no size restriction.
- (d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.
- (4) **Aldrich Lake (Mason County)**: Open the fourth Saturday in April through October 31.
- (5) **Alexander Lake (Kitsap County)**: Closed waters.
- (6) **American Lake (Pierce County)**:
- (a) Chumming is permissible.
- (b) Game fish: Statewide minimum length/daily limit, except: Combined daily limit of trout and kokanee is 5, any length.
- (7) **Anderson Creek (Kitsap County)**:
- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (8) **Armstrong Lake (Snohomish County)**: Open the fourth Saturday in April through October 31.
- (9) **Bainbridge Island - All streams (Kitsap County)**:
- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (10) **Baker Lake (Whatcom County)**:
- (a) Closed waters within a 200-foot radius around the pump discharge at the south end of the lake.
- (b) Chumming is permissible.
- (c) Open the fourth Saturday in April through October 31.
- (d) Game fish: Statewide minimum length/daily limit, except: Kokanee: Minimum length 8 inches and maximum length 18 inches.
- (e) Salmon: Open July ((9)) 15 through August 31:
- (i) Daily limit ((2)) 3 sockeye only.
- (ii) Release all other salmon.
- (iii) Minimum size 18 inches. ((Release all other salmon.))
- (iv) 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~~) the downstream terminus of the Washington department of fish and wildlife public access easement (47.816759 lat., -122.8943 long.):

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

(ii) Game fish:(A) Open the Saturday before Memorial Day through August 15(~~(+ (i))~~).(B) Selective gear rules.(~~((ii) Game fish:)) (C) Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.~~(iii) Salmon:(A) Open August 16 through August 31.(B) Daily limit 4 coho only. Release all other salmon.(C) Night closure.(D) Anti-snagging rules.(b) From (~~Rodgers Street~~) the downstream terminus of the Washington department of fish and wildlife public access easement (47.816759 lat., -122.8943 long.) 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)) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~(ii) Game fish:(A) Open the Saturday before Memorial Day through August 15.(B) Selective gear rules.(C) Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.(iii) Salmon:(A) Open August 16 through October 31.(B) Daily limit 4 coho only(~~(+ minimum length 12 inches))~~. Release all other salmon.(C) Night closure.(D) Anti-snagging rules.(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~~) October 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~~) October 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 (~~September 30~~) October 31:

(A) Night closure.

(B) Anti-snagging rules.

(C) Barbless hooks are required.

(ii) Open September 1 through September 30: Wednesdays through Saturdays only.

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

(iv) Open October 1 through October 31.

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

(vi) 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)~~) (vii) Salmon:

(A) Open September 1 through September 30, Wednesdays through Saturdays only.

(~~(B)~~) (I) Daily limit 6; up to 2 may be adults, minimum length 12 inches.

(~~(C)~~) (II) Release wild Chinook and chum.

(B) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults.

(II) 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: 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 31~~) September 30: Wednesdays through Saturdays only:
- (A) Anti-snagging rules (~~and~~).
- (B) Barbless hooks are required.
- (C) No bait allowed.
- (D) Night closure.
- ~~((B))~~ (E) Salmon: Daily limit 4 coho.
- ~~((I))~~ (F) Release all other salmon.
- ~~((II))~~ Minimum length 12 inches.
- ~~(C))~~ (G) 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 October 1 through October 31: Wednesdays through Saturdays only:
- (A) Anti-snagging rules.
- (B) Night closure.
- (C) Salmon: Daily limit 4 coho. Release all other salmon.
- (D) 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.
- (iv) 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+)) (A) Daily limit 6; up to 4 may be adults; minimum length 12 inches.

((+C+)) (B) 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: Release cutthroat trout and wild rainbow trout.
 - (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) **Elsion Creek (Thurston County)**: Closed waters.

(91) **Erdman Lake (Mason County)**: Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(92) **Erickson Pond (Kitsap County)**: Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(93) **Erickson Reservoir (Kitsap County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(95) **Fawn Lake (Upper and Lower) (Mason County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(97) **Finch Creek (Mason County):** Anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card may fish from the ADA accessible site at the Hoodspout Salmon Hatchery, so long as those anglers follow all applicable rules of the adjoining waters of Marine Area 12.

(98) **Finney Creek (Skagit County):** From the mouth up to the USFS 17 road bridge: Closed waters.

(99) **Fisher Creek Slough (Skagit County):** From the mouth to the I-5 Bridge: Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(100) **Fortson Mill Pond #1 (Snohomish County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(101) **Fortson Mill Pond #2 (Snohomish County):**

(a) Open the fourth Saturday in April through October 31 for juvenile anglers only.

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

(i) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iii) Channel catfish: Daily limit 10; no size restriction.

(iv) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(102) **Fulton Creek (Mason County)**: From the mouth to falls at river mile 0.8:

(a) Selective gear rules.

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

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

(104) **Gibbs Lake (Jefferson County)**:

(a) Selective gear rules.

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

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

(i) Trout: Daily limit 1; minimum length 18 inches.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

(106) **Goat Ranch Pond (Mason County)**: Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(107) **Goldsborough Creek and tributaries (Mason County)**:

(a) Selective gear rules.

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

(108) **Goodwin Lake (Snohomish County)**: Chumming is permissible.

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

(110) **Gorst Creek (Kitsap County)**:

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

(b) Selective gear rules.

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

(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 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 East-bound 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 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 rules.

(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 ((7)) 6 through August 30, Wednesdays through Saturdays only. Closed ((August 24,)) August 31((, and September 1)). From September ((4)) 3 through November ((7)) 15, 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)) Highway 544 Bridge in Everson:

(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 4; ((of which)) up to 2 may be wild coho and up to 2 may be hatchery Chinook.

(II) Release chum, pink, and wild Chinook.

(B) Open October 1 through December 31:

(I) Daily limit 4; ((of which)) up to 2 may be wild coho and up to 2 may be Chinook.

(II) Release chum and pink.

(b) From the Highway 544 Bridge in Everson to the yellow marker at the FFA High School barn in Deming (~~to the confluence of the forks~~):

(i) Open October 1 through January 31.

(ii) (~~October~~) August 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 August 1 through September 30:

(I) Daily limit 4; up to 2 may be wild coho and up to 2 may be hatchery Chinook.

(II) Release chum, pink, and wild Chinook.

(B) Open October 1 through (~~December~~) October 31:

(~~(B)~~) (I) Daily limit 4; up to 2 may be wild coho and up to 2 may be Chinook.

(~~(C)~~) (II) Release chum and pink.

(C) Open November 1 through November 30: Daily limit 4; up to 2 may be wild coho, up to 2 may be Chinook, and up to 1 may be a chum.

(D) Open December 1 through December 31:

(I) Daily limit 4; up to 2 may be wild coho.

(II) Release chum.

(c) From the yellow marker at the FFA High School barn in Deming to the confluence of the forks:

(i) Open October 1 through January 31.

(ii) August 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 October 31:

(I) Daily limit 4; up to 2 may be wild coho.

(II) Release chum and pink.

(B) Open November 1 through November 30: Daily limit 4; up to 2 may be wild coho and up to 1 may be a chum.

(C) Open December 1 through December 31:

(I) Daily limit 4; up to 2 may be wild coho.

(II) 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 4; up to 2 may be wild coho.
 - (C) Release chum and pink.
 - (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 4; up to 2 may be wild coho.
 - (C) Release chum and pink.
 - (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 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 6; of which up to 2 may be wild coho or 2 hatchery Chinook or 1 of each.

(II) Release chum, pink, and wild Chinook.

(B) Open October 16 through December 31:

(I) Daily limit 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 ((1)) 16 through January 31.
 - (ii) Selective gear rules.
 - (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (b) From the Highway 9 Bridge to Pilchuck Falls:
 - (i) Open the Saturday before Memorial Day through January 31.
 - (ii) From the Saturday before Memorial Day through November 30; selective gear rules.
 - (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(199) **Pilchuck River (Snohomish County):**

- (a) From the mouth to ((500-foot downstream from)) the concrete wall remnant of the Snohomish City diversion dam site:
 - (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-foot downstream from)) the concrete wall remnant of the Snohomish City diversion dam site 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 September 30 all waters open Wednesdays through Saturdays.
 - (A) Anti-snagging rules.
 - (B) Night closure.
 - (C) Barbless hooks are required.
- (ii) Open ((for game fish)) August 16 through September 30.
 - (A) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((iii)) (B) Salmon: ((Open August 16 through September 30. (A))) Daily limit 6; up to ((2)) 4 may be adults, of which up to 2 may be hatchery Chinook or coho or 1 of each.

~~((B))~~ (C) Release chum and wild Chinook.

(iii) From October 1 through October 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Barbless hooks are required.

(iv) Open October 1 through October 31.

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

(B) Salmon: Daily limit 6; up to 4 may be adults; up to 2 may be hatchery Chinook or coho or one of each. 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 September 30 all waters open Wednesdays through Saturdays.

(A) Anti-snagging rules.

(B) Night closure.

(C) Barbless hooks are required.

(ii) ~~((Game fish:))~~ Open August 16 through September 30:

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

~~((iii))~~ (B) Salmon: ~~((Open August 16 through September 30.~~

~~(A))~~ Daily limit 6; up to 2 may be adults. ~~((B))~~ Release chum and wild Chinook.

(iii) From October 1 through October 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Barbless hooks are required.

(iv) Open October 1 through October 31.

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

(B) Salmon: Daily limit 6; up to 4 may be adults; up to 2 may be hatchery Chinook or coho or one of each. Release chum and wild Chinook.

(d) From East Main Bridge to Carbon River:

(i) From August 16 through 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 September 30.

~~((B))~~ (A) Game fish: Statewide minimum length/daily limit except: Release cutthroat trout and wild rainbow trout.

~~((iii))~~ (B) Salmon: ~~((A) Open August 16 through September 30.~~

~~(B))~~ Daily limit 6; up to 2 may be adults. ~~((C))~~ Release chum and wild Chinook.

(iii) From October 1 through October 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Barbless hooks are required.

(iv) Open October 1 through October 31:

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

(B) Salmon: Daily limit 6; up to 4 may be adults; up to 2 may be hatchery Chinook or coho or one of each. Release chum and wild Chinook.

(e) From Carbon River upstream:

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

(ii) Selective gear rules.

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

(206) **Raging River (King County)**: From the mouth to the Highway 18 Bridge:

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

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

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

(208) **Rattlesnake Lake (King County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(209) **Ravensdale Lake (King County)**:

(a) Selective gear rules.

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

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(iii) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(iv) Channel catfish: Daily limit 10; no size restriction.

(v) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

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

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

(212) **Rocky Creek (Mason County)**:

(a) Selective gear rules.

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

(213) **Roesiger Lake (Snohomish County)**: Game fish: statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(214) **Ross Lake (Reservoir) (Whatcom County)**:

(a) Open July 1 through October 31.

(b) Selective gear rules.

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

(i) Trout except eastern brook trout: Daily limit 1; minimum length 16 inches.

(ii) Eastern brook trout: Daily limit 5; no minimum size.

(215) **Ross Lake tributary streams, and their tributaries, except Big Beaver Creek and Ruby Creek (Whatcom County)**:

(a) From mouth to one mile upstream: Closed waters.

(b) From one mile above the mouths to the headwaters: Open July 1 through October 31.

(216) **Ruby Creek (Whatcom County)**: Closed waters.

(217) **Ruby Creek tributaries (Whatcom County)**: Open July 1 through October 31.

(218) **Salmon Creek and all forks (Jefferson/Clallam counties):**
Closed waters.

(219) **Salmonberry Creek (Kitsap County):**

(a) Selective gear rules.

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

(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~~) November 1 through November 30.

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

(iii) From August 1 through November 30:

(A) Night closure.

(B) 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(~~+~~).

(I) Anglers may only retain fish hooked inside the mouth.

(II) Stationary gear restriction.

(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~~) November 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~~) November 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~~) July 31.

(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: 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) From March 1 through August (~~31~~) 13:

(A) Selective gear rule except anglers fishing for sturgeon must use bait.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iii) (~~September 1~~) From August 14 through October 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 ((September 1)) August 14 through ((October)) August 31: Daily limit 2 pink salmon. Release ((Chinook and chum)) all other salmon.

(B) Open September 1 through October 31: Daily limit 2 salmon. Release Chinook, chum, and wild coho.

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

(i) Open June 1 through January 31.

(ii) ((July 1)) From June 16 through July 15, August 14 through August 31, and September 1 through October 31: Night closure.

(iii) From June 1 through August ((31)) 13:

(A) Selective gear rules except for sturgeon.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

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

(v) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.

(vi) Salmon:

(A) Open July 1 through July 15:

(I) Daily limit ((2)) 3 sockeye only.

(II) Release all other salmon.

(B) Open August 14 through August 31:

(I) Daily limit 2 pink only.

(II) Release all other salmon.

(C) Open September 1 through October 31:

(I) Daily limit 2 salmon.

(II) Release Chinook ((and)), chum, and wild coho.

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

(i) Open June 1 through January 31.

(ii) From 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) From June 1 through October 31: Night closure.

(iv) From September 1 through September 30:

(A) Single-point barbless hooks only.

(B) Bait is prohibited.

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

((v)) (vi) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.

((vi)) (vii) Salmon:

(A) Open July 1 through July 15:

(I) Daily limit ((2)) 3 sockeye only.

(II) Release all other salmon.

(B) Open September 1 through October 31:

(I) Daily limit 2 salmon.

(II) Release Chinook ((and)), chum, and wild coho.

(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)) September 15: 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) From June 1 through ((August 31)) September 15:
 - (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) From June 1 through October 31: Night closure.
- (v) From September 16 through September 30:
 - (I) Single-point barbless hooks are required.
 - (II) Bait is prohibited.
- (vi) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- ~~((vi))~~ (vii) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.
- ~~((vii))~~ (viii) Salmon: Open September ((1)) 16 through October 31: Daily limit 2 salmon. Release Chinook ((and)), chum, and wild coho.
- (e) From the Highway 530 Bridge at Rockport to the Cascade River Road (Marblemount Bridge):
 - (i) Open June 1 through January 31:
 - ~~((A))~~ (ii) From June 1 through July 15; anti-snagging rules.
 - ~~((B))~~ (iii) From June 1 ((through July 15 and September 1)) through October ((15)) 31: Night closure.
 - ~~((C))~~ (iv) From July 16 through ((August 31)) September 15: Selective gear rules and it is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.
 - ~~((ii))~~ (v) From September 16 through September 30:
 - (A) Single-point barbless hooks are required.
 - (B) Bait is prohibited.
 - (vi) Salmon:
 - (A) Open July 1 through July 15: Daily limit 4 hatchery Chinook only; up to 2 may be adults.
 - (B) Open September ((1)) 16 through October 31: Daily limit 2. Release Chinook ((and)), chum, and wild coho.
- (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: Open the Saturday before Memorial Day through July 31: Daily limit 4 hatchery Chinook; up to 2 may be adults. Release all other salmon.))~~

(c) From the mouth of the Wallace River to High Bridge (Highway 2):

(i) Open November 1 through January 31 for game fish only.

(ii) From November 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(d) From High Bridge (Highway 2) to the forks:

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

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(C) Bait is prohibited.

(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.

(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))~~ November 1 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) From 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) From September 16 through October 15:

(A) Single-point barbless hooks are required.

(B) Bait prohibited.

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

~~((iv))~~ (v) 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.

(vi) Salmon: Open September 16 through October 15:

(A) Daily limit 4; up to 2 may be coho.

(B) Release Chinook and chum.

(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) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From September 16 through October 15:

(A) Single-point barbless hooks are required.

(B) Bait is prohibited.

(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 September 16 through October 15:

(A) Daily limit 4; up to 2 may be coho.

(B) Release Chinook and chum.

(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)~~) October 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 (~~(4)~~) 16 through (~~(November 30)~~) October 31:

(A) Selective gear rules.

(B) Night closure.

(C) Release all game fish except hatchery steelhead.

(iii) Open from December 1 through January 31. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open September (~~(4)~~) 16 through (~~(November 15)~~) October 31: Daily limit (~~(2)~~) 4; up to 2 may be coho (~~(only)~~). Release (~~(all other salmon)~~) Chinook and chum.

(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))~~ Highway 530 Bridge at mile post 28.8 (Cicero Bridge):

(i) It is unlawful to fish from any floating device equipped with a motor downstream from the Highway 530 Bridge.

~~((iii))~~ (ii) 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 Highway 530 Bridge at mile post 28.8 (Cicero Bridge) the mouth of French Creek ~~((to Swede Heaven Bridge))~~:

(i) It is unlawful to fish from any floating device upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

(ii) From ~~((September))~~ October 16 through November 30:

(A) Night closure.

(B) Anti-snagging rules.

~~((iii))~~ (iii) Open ~~((September))~~ October 16 through November 30:

(A) Fly fishing only.

(B) Release all fish except hatchery steelhead.

~~((iii))~~ (iv) Open from December 1 through February 15. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) From mouth of French Creek to Swede Heaven Bridge ~~((to North Forks Falls approximately one mile upstream of Cascade Creek))~~:

(i) Open ~~((September))~~ October 16 through November 30.

(ii) Selective gear rules.

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

(d) From Swede Heaven Bridge to North Forks Falls approximately one mile upstream of Cascade Creek:

(i) Open October 16 through January 31.

(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))~~ October 16 through January 31.

(ii) From ~~((September))~~ October 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 ((±)) 16 through ((~~November 30~~)) October 31.

(B) Daily limit 2 hatchery coho only.

(C) Release all other salmon.

(b) From 363rd Avenue S.E./Reece Road to 200 feet downstream of the water intake of the Wallace salmon hatchery:

(i) Open ((~~September~~)) October 16 through February 15.

(ii) ((~~September~~)) October 16 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 ((±)) 16 through ((~~November 30~~)) October 31.

(B) Daily limit 2 hatchery coho only.

(C) Release all other salmon.

(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: 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. Salmon: Open August 4 through September 10 Friday, Saturday, and Sunday only.

(i) Daily limit 1 hatchery Chinook only.

(ii) Release all other salmon.

(iii) Anti-snagging rules.

(iv) Night closure.

(c) From the footbridge below Dupont Street in Bellingham to the stone bridge at Whatcom Falls Park:

(i) From 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, and 77.12.047. WSR 22-14-054 (Order 22-114), § 220-312-040, filed 6/29/22, effective 7/30/22. 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-4530.1

AMENDATORY SECTION (Amending WSR 22-05-066, filed 2/11/22, effective 7/1/22)

WAC 220-312-050 Freshwater exceptions to statewide rules—East-side. (1) Countywide freshwater exceptions to statewide rules:

(a) Irrigation canals, wasteways, drains and the inlets and outlets of all lakes, ponds, and reservoirs in Grant and Adams counties (except Crab Creek, Rocky Ford Creek and Ponds, Columbia Basin Hatchery Creek, Bobcat Creek, Coyote Creek, Frenchman Hills Wasteway and Drains, Hays Creek, Red Rock Creek, Sand Hollow Creek, and Lake Lenore inlet and outlet) are open year-round, statewide lake rules apply to all species.

(b) In Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River) and Enloe Dam (Similkameen River): It is permissible to fish up to the base of all dams.

(2) Aeneas Lake (Okanogan County):

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

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(3) **Ahtanum Creek (Yakima County):** Selective gear rules.

(4) **Ahtanum Creek, North Fork (Yakima County):**

(a) From the Grey Rock Trailhead Bridge crossing upstream to Shellneck Creek: Closed waters.

(b) Selective gear rules.

(5) **Ahtanum Creek, Middle Fork (Yakima County):**

(a) From the A2000 Spur Road Bridge in NE 1/4 of Section 34 upstream to the A2800 Road Bridge at Tree Phones Campground: Closed waters.

(b) Selective gear rules.

(6) **Alta Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(7) **Amber Lake (Spokane County):**

(a) Selective gear rules.

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

(c) Open March 1 through November 30.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(8) **American River (Yakima County):**

(a) Selective gear rules.

(b) From the Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8: Closed waters from July 16 through September 15.

(9) **Amon Wasteway (Benton County):** Selective gear rules.

- (10) **Andrews Creek (tributary to Chewuch River) (Okanogan County)**: From the mouth to the falls approximately 0.5 miles upstream: Closed waters.
- (11) **Asotin Creek, mainstem and forks (Asotin County)**:
(a) Closed waters:
(i) South Fork from mouth upstream.
(ii) North Fork from USFS border upstream.
(b) Game fish: Statewide minimum length/daily limit, except: It is unlawful to fish for steelhead.
(c) Selective gear rules.
- (12) **Aspen Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (13) **Badger Lake (Spokane County)**: Open the fourth Saturday in April through September 30.
- (14) **Banks Lake (Grant County)**:
(a) Chumming is permissible.
(b) Game fish: Statewide minimum length/daily limit, except:
(i) Crappie: Daily limit 10; minimum length 9 inches.
(ii) Yellow perch: Daily limit 25.
- (15) **Bayley Lake (Stevens County)**:
(a) Inlet stream: Closed waters.
(b) Open the fourth Saturday in April through October 31.
(c) Fly fishing only.
(d) It is unlawful to fish from a floating device equipped with a motor.
(e) Release all fish.
- (16) **Bear Creek (tributary to South Fork Tieton River) (Yakima County)**: From the mouth to the falls (approximately 0.75 mile): Closed waters.
- (17) **Bear Lake (Spokane County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (18) **Beaver Creek (tributary to Methow River) (Okanogan County)**: Closed waters.
- (19) **Beaver Lake (Big) (Okanogan County)**: Open the fourth Saturday in April through October 31.
- (20) **Beaver Lake, (Little)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (21) **Beda Lake (Grant County)**:
(a) Selective gear rules.
(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (22) **Beehive (Lake) Reservoir (Chelan County)**:
(a) Open the fourth Saturday in April through October 31.
(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (23) **Beth Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.
- (24) **Big Four Lake (Columbia County)**:
(a) Fly fishing only.
(b) It is unlawful to fish from any floating device.
(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

- (25) **Big Meadow Lake (Pend Oreille County):**
(a) Open the fourth Saturday in April through October 31.
(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (26) **Big Twin Lake (Okanogan County):**
(a) Open the fourth Saturday in April through October 31.
(b) Selective gear rules.
(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (27) **Blackbird Island Pond (Chelan County):** Open July 1 through September 30 for juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (28) **Black Canyon Creek (tributary to Methow River) (Okanogan County):** Closed waters.
- (29) **Black Lake (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (30) **Black Lake (Okanogan County):** Selective gear rules.
- (31) **Black Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (32) **Blue Lake (Columbia County):** It is unlawful to fish from any floating device.
- (33) **Blue Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (34) **Blue Lake (near Sinlahekin) (Okanogan County):**
(a) Open the fourth Saturday in April through October 31.
(b) Selective gear rules.
(c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.
(e) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (35) **Blue Lake (near Wannacut Lake) (Okanogan County):**
(a) Open the fourth Saturday in April through October 31.
(b) Selective gear rules.
(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1, minimum length 18 inches.
- (36) **Bobcat Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.
- (37) **Bonaparte Creek (Okanogan County):** From the mouth to the falls approximately river mile 1.0: Closed waters.
- (38) **Bonaparte Lake (Okanogan County):**
(a) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (39) **Boulder Creek and tributaries (Okanogan County):** From the mouth to the barrier falls at river mile 1.0: Closed waters.
- (40) **Box Canyon Creek and tributaries (Kittitas County):** From mouth (Kachess Reservoir) upstream approximately 2 miles to the 20 foot high waterfall, including that portion of the creek that flows through the dry lake bed: Closed waters.

- (41) **Browns Lake (Pend Oreille County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Fly fishing only.
 (c) It is unlawful to fish from a floating device equipped with a motor.
- (42) **Bumping Lake (Reservoir) (Yakima County):** Chumming is permissible.
- (43) **Buckskin Creek and tributaries (Yakima County):** From the mouth to the west boundary of Suntides Golf Course: Closed waters.
- (44) **Bumping River (Yakima County):**
 (a) It is permissible to fish up to the base of Bumping Dam.
 (b) From the mouth to Bumping Reservoir; selective gear rules.
- (45) **Burke Lake (Grant County):** Open March 1 through September 30.
- (46) **Buttermilk Creek (tributary to Twisp River) (Okanogan County), including tributaries:**
 (a) Open the Saturday before Memorial Day through August 15.
 (b) Release all fish.
 (c) Selective gear rules.
- (47) **Buzzard Lake (Okanogan County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Selective gear rules.
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (48) **Caldwell Lake (Pend Oreille County):**
 (a) Open the fourth Saturday in April through October 31.
 (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (49) **Caliche Lakes, Upper (Grant County):** Open March 1 through September 30.
- (50) **Calispell Creek (Calispell River) (Pend Oreille County):** From the mouth to Calispell Lake: Open year-round.
- (51) **Campbell Lake (Okanogan County):**
 (a) Selective gear rules.
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (52) **Carl's Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (53) **Cascade Lake (Grant County):** Open March 1 through September 30.
- (54) **Cattail Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (55) **Cedar Creek (tributary to Early Winters Creek) (Okanogan County):**
 (a) From the mouth to Cedar Falls:
 (i) Open the Saturday before Memorial Day through August 15.
 (ii) Selective gear rules.
 (iii) Release all fish.
 (b) From Cedar Falls upstream including tributaries: Selective gear rules.
- (56) **Cedar Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (57) **Chain Lake (Pend Oreille County):**

- (a) Open the fourth Saturday in April through October 31.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release kokanee.
- (58) **Chapman Lake (Spokane County):**
- (a) Open the fourth Saturday in April through October 31.
 - (b) Chumming is permissible.
- (59) **Chelan Hatchery Creek (Chelan County):** Closed waters.
- (60) **Chelan Lake (Chelan County):**
- (a) Game fish: Statewide minimum length/daily limit, except:
 - (i) Release wild cutthroat trout.
 - (ii) Lake trout: No limit and no size restriction.
 - (b) Salmon: Daily limit 1; minimum length 15 inches.
 - (c) No catch record card required.
- (61) **Chelan Lake tributaries (Chelan County):**
- (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat trout.
- (62) **Chelan River (Chelan County):** From the railroad bridge to the Chelan PUD safety barrier below the power house:
- (a) Salmon: Open July 16 through October 15:
 - (i) Daily limit 6; up to 2 may be adult hatchery Chinook. Release sockeye, coho, and wild adult Chinook.
 - (ii) July 16 through October 15: Anti-snagging rule and night closure.
 - (b) Game fish: Statewide minimum length/daily limit, except:
 - (i) Release trout.
 - (ii) Steelhead: Closed to fishing.
 - (c) From the Chelan PUD safety barrier below the power house upstream to Chelan Lake: Closed waters.
- (63) **Chewuch River (Okanogan County):**
- (a) From the mouth to Eight Mile Creek:
 - (i) Open the Saturday before Memorial Day through August 15.
 - (ii) Selective gear rules.
 - (iii) Release all fish.
 - (b) From the mouth to Pasayten Wilderness boundary falls: Whitefish:
 - (i) Open December 1 through the last day in February for whitefish only.
 - (ii) Whitefish gear rules.
- (64) **Chiwaukum Creek (Chelan County):**
- (a) From the mouth to Fool Hen Creek, including Fool Hen Creek and tributaries: Closed waters.
 - (b) From Fool Hen Creek upstream and tributaries: Selective gear rules.
- (65) **Chiwawa River (Chelan County):**
- (a) From the mouth to Buck Creek and tributaries not including Buck Creek: Closed waters.
 - (b) From Buck Creek upstream and tributaries (including Buck Creek): Selective gear rules.
- (66) **Chopaka Lake (Okanogan County):**
- (a) Open the fourth Saturday in April through October 31.
 - (b) Fly fishing only.
 - (c) It is unlawful to fish from a floating device equipped with a motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (67) **Chumstick Creek (Chelan County):** Closed waters.

- (68) **Clear Lake (Chelan County):**
(a) Open the fourth Saturday in April through October 31.
(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (69) **Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.
- (70) **Cle Elum Lake (Reservoir) (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 9 inches and maximum length 15 inches.
- (71) **Cle Elum River (Kittitas County):**
(a) From the mouth to Cle Elum Dam:
(i) Open year-round.
(ii) Selective gear rules.
(iii) Game fish: Statewide minimum length/daily limit, except: Release rainbow trout and cutthroat trout.
(iv) It is permissible to fish up to the base of Cle Elum Dam.
(v) Whitefish:
(A) Open December 1 through last day in February for whitefish only.
(B) Whitefish gear rules.
(b) From above Cle Elum Lake to outlet of Hyas Lake: Selective gear rules.
- (72) **Cliff Lake (Grant County):** Open March 1 through September 30.
- (73) **Coffee Pot Lake (Lincoln County):**
(a) Open March 1 through September 30.
(b) Selective gear rules.
(c) Game fish: Statewide minimum length/daily limit, except:
(i) Trout: Daily limit 1; minimum length 18 inches.
(ii) Crappie: Daily limit 10; minimum length 9 inches.
- (74) **Columbia Basin Hatchery Creek (Grant County):**
(a) Open April 1 through September 30 from the hatchery outflow to the confluence with Rocky Coulee Wasteway.
(b) Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (75) **Columbia Park Pond (Benton County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (76) **Colville River (Stevens County):** From the mouth to bridge at the town of Valley including Meyers Falls Reservoir: Open year-round.
- (77) **Conconully Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (78) **Conconully Reservoir (Okanogan County):** Open the fourth Saturday in April through October 31.
- (79) **Conger Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (80) **Conner Lake (Okanogan County):**
(a) Open the fourth Saturday in April through October 31.
(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (81) **Cooper River (Kittitas County):** From the mouth to Cooper Lake: Selective gear rules.
- (82) **Coot Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (83) **Corral Creek (Benton County):** Selective gear rules.
- (84) **Cougar Lake (Pasayten Wilderness) (Okanogan County):** Selective gear rules.

(85) Cougar Lake (near Winthrop) (Okanogan County):

(a) Selective gear rules.

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

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

Trout: Daily limit 2; minimum length 14 inches.

(86) **Cowiche Creek (Yakima County):** Selective gear rules.

(87) **Coyote Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

(88) Crab Creek (Adams/Grant/Lincoln counties):

(a) From the mouth to Morgan Lake Road: Open the Saturday before Memorial Day through September 30.

(b) From Morgan Lake Road to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

(c) From the confluence of the Moses Lake outlets to Sand Dunes Road including tributaries:

(i) Open year-round.

(ii) Statewide lake rules apply to all species, except:

(A) Crappie: Minimum length 9 inches.

(B) Crappie and bluegill: Combined limit of 25 fish.

(C) Yellow perch: Daily limit 25 fish.

(d) From the fountain buoy and shoreline markers of 150 feet down stream of the Alder Street fill to Grant County Road 7 NE:

(i) Open year-round.

(ii) Statewide lake rules apply to all species, except:

(A) Crappie: Daily limit 10; minimum length 9 inches.

(B) Bluegill: Daily limit 5; minimum length 8 inches.

(C) Yellow perch: Daily limit 25.

(e) From Grant County Road 7 NE upstream (including all tributaries, except Goose Creek in the city of Wilbur): Open year-round.

(89) Crawfish Lake (Okanogan County):

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

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

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

Eastern brook trout count as part of trout daily limit.

(90) **Crescent Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(91) **Crystal Lake (Grant County):** Open March 1 through September 30.

(92) **Cub Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to West Chewuch Road Bridge: Closed waters.

(93) **Cup Lake (Grant County):** Open March 1 through September 30.

(94) Curl Lake (Columbia County):

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

(b) It is unlawful to fish from any floating device.

(95) **Davis Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(96) Davis Lake (Okanogan County):

(a) Selective gear rules.

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

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

Trout: Daily limit 2; minimum length 14 inches.

(97) **Dayton Pond (Columbia County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

- (98) **Deadman Lake (Adams County)**: Open the fourth Saturday in April through September 30.
- (99) **Deep Creek (tributary to Bumping Lake) (Yakima County)**: From the mouth to the waterfall approximately 0.33 mile above the second bridge crossing on USFS Road 1808 (approximately 3.7 miles from the junction of USFS Roads 1800 and 1808): Closed waters.
- (100) **Deep Lake (Grant County)**: Open the fourth Saturday in April through September 30.
- (101) **Deep Lake (Stevens County)**: Open the fourth Saturday in April through October 31.
- (102) **Deer Lake (Columbia County)**:
- (a) Open March 1 through November 30.
 - (b) It is unlawful to fish from any floating device.
- (103) **Deer (Deer Springs) Lake (Lincoln County)**: Open the fourth Saturday in April through September 30.
- (104) **Deer Lake (Stevens County)**:
- (a) Open March 1 through November 30.
 - (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (105) **Delaney Springs (Grant County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (106) **De Roux Creek (Kittitas County)**: From the mouth to the USFS trail 1392 (De Roux Creek Trail) stream crossing (approximately 1 river mile): Closed waters.
- (107) **Dog Creek (tributary to Chewuch) (Okanogan County)**: From mouth upstream to falls approximately 1.5 miles: Closed waters.
- (108) **Domerie Creek (Kittitas County)**: Selective gear rules.
- (109) **Downs Lake (Lincoln/Spokane counties)**:
- (a) Open March 1 through September 30.
 - (b) Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.
- (110) **Dry Falls Lake (Grant County)**:
- (a) Open March 1 through November 30.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (111) **Dune Lake (Grant County)**:
- (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (112) **Dusty Lake (Grant County)**:
- (a) Open March 1 through November 30.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (113) **Eagle Creek (tributary to Twisp River) (Okanogan County)**: From mouth upstream to the falls approximately 0.5 miles: Closed waters.
- (114) **Early Winters Creek (tributary to Methow River) (Okanogan County)**:
- (a) From the mouth upstream to Forest Road 300: Closed waters.

(b) From Forest Road 300 upstream; including tributaries except Cedar Creek:

- (i) Open the Saturday before Memorial Day through August 15.
- (ii) Selective gear rules.
- (iii) Release all fish.

(115) **Eightmile Creek (tributary to Chewuch River) (Okanogan County)**: From the mouth upstream to Forest Road 5130 Bridge: Closed waters.

(116) **Elbow Lake (Stevens County)**:

- (a) Open the fourth Saturday in April through October 31.
- (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(117) **Ell Lake (Okanogan County)**:

- (a) Open the fourth Saturday in April through October 31.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(118) **Eloika Lake (Spokane County)**: Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(119) **Empire Lake (Ferry County)**:

- (a) Open the fourth Saturday in April through October 31.
- (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(120) **Entiat River (Chelan County)**:

(a) From mouth (railroad bridge) to the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery):

- (i) Salmon: Open from July 16 through September 30:
 - (A) Daily limit 6 Chinook salmon. Release all other salmon.
 - (B) Night closure.
- (ii) Open December 1 through the last day in February for whitefish only.
 - (iii) Whitefish gear rules.
- (b) From the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery) to Entiat Falls:
 - (i) Whitefish:
 - (ii) Open December 1 through the last day in February for whitefish only.
 - (iii) Whitefish gear rules.
 - (c) Entiat River and all tributaries above Entiat Falls: Selective gear rules.

(121) **Ephrata Lake (Grant County)**: Closed waters.

(122) **Esquatzel Coulee (Franklin County)**: Open year-round.

(123) **Esquatzel Coulee, West Branch (Franklin County)**: Open year-round.

(124) **Falls Creek (tributary to Chewuch River) (Okanogan County)**: From mouth upstream to the falls approximately .15 miles: Closed waters.

(125) **Fan Lake (Pend Oreille County)**:

- (a) Open the fourth Saturday in April through September 30.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(126) **Ferry Lake (Ferry County)**: It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(127) **Fiorito Lakes (Kittitas County)**: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(128) **Fish Lake (Chelan County)**: Game fish: Statewide minimum length/daily limit, except: Yellow perch: Daily limit 25.

(129) **Fish Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

(130) **Fish Lake (Spokane County)**:

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

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

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(131) **Fishhook Pond (Walla Walla County)**: It is unlawful to fish from a floating device.

(132) **Fishtrap Lake (Lincoln/Spokane counties)**: Open the fourth Saturday in April through September 30.

(133) **Forde Lake (Okanogan County)**:

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(134) **Fourth of July Lake (Adams/Lincoln counties)**:

(a) Open the Friday after Thanksgiving through March 31.

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

(135) **Frank's Pond (Chelan County)**:

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

(b) Open to juvenile anglers only.

(136) **Frater Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(137) **Frenchman Hills Wasteway and Drains (Grant County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(138) **Gadwall Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(139) **Garfield Juvenile Pond (Whitman County)**: Open to juvenile anglers only.

(140) **Goat Creek (tributary to Methow River) (Okanogan County)**: Closed waters.

(141) **Gold Creek, Gold Creek Pond and outlet channel (tributary to Keechelus Lake)**: Including that portion of Gold Creek that flows through the dry Keechelus Reservoir lakebed: Closed waters.

(142) **Gold Creek (tributary to Methow River) (Okanogan County)**: Closed waters.

(143) **Goose Creek (Lincoln County), within the city limits of Wilbur**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(144) **Goose Lake, Lower (Grant County)**: Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Daily limit 10; minimum length 9 inches.

(b) Bluegill: It is unlawful to retain more than 5 fish over 6 inches in length.

(145) **Grande Ronde River (Asotin County)**:

(a) From the mouth to County Road Bridge, about 2.5 miles upstream:

- (i) Open year-round for game fish other than trout and steelhead.
- (ii) From August 1 through April 15: Selective gear rules.
- (iii) Trout: Open from the Saturday before Memorial Day through October 31.
- (iv) Steelhead:
 - (A) Open January 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (B) August 1 through December 31; release steelhead.
- (b) From the County Road Bridge upstream to the Oregon state line:
 - (i) Open year-round for game fish other than trout and steelhead.
 - (ii) From August 1 through April 15: Barbless hooks required.
 - (iii) Trout: Open from the Saturday before Memorial Day through October 31.
 - (iv) Steelhead: Open August 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.
- (c) All tributaries: Closed waters.
- (146) **Green Lakes (Lower and Upper) (Okanogan County):**
 - (a) Selective gear rules.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (c) Game fish: Statewide minimum length/daily limit, except:
 - (i) Trout: Daily limit 2; minimum length 14 inches.
 - (ii) Eastern brook trout count as part of trout daily limit.
- (147) **Grimes Lake (Douglas County):**
 - (a) Open June 1 through August 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except:
 - Trout: Daily limit 1; minimum length 18 inches.
- (148) **Halfmoon Lake (Adams County):** Open the fourth Saturday in April through September 30.
- (149) **Hampton Lakes (Lower and Upper) (Grant County):** Open the fourth Saturday in April through September 30.
- (150) **H and H Reservoir Number One (Pascal's Pond) (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (151) **Harris Lake (Grant County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except:
 - Trout: Daily limit 1; minimum length 18 inches.
- (152) **Hatch Lake (Stevens County):** Open the Friday after Thanksgiving through March 31.
- (153) **Hays Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.
- (154) **Headgate Pond (Asotin County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (155) **Hen Lake (Grant County):** Open the fourth Saturday in April through September 30.
- (156) **Hog Canyon Creek (Spokane County):** From the mouth to Scroggie Road: Closed waters.
- (157) **Hog Canyon Lake (Spokane County):** Open the Friday after Thanksgiving through March 31.
- (158) **Homestead Lake (Grant County):**
 - (a) Selective gear rules.

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

(c) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.

(159) **Hourglass Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(160) **Hutchinson Lake (Adams County)**: Open the fourth Saturday in April through September 30.

(161) **I-82 Ponds, 1 through 7 (Yakima County)**: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(162) **Icicle River and tributaries (Creek) (Chelan County)**:

(a) From the mouth upstream 800 feet to posted signs: Closed waters.

(b) From posted signs 800 feet upstream of the mouth to 500 feet below Leavenworth National Fish Hatchery: Closed waters.

(c) From 500 feet below Leavenworth National Fish Hatchery to shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort: Closed waters.

(d) From shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation District footbridge (approximately 750 feet upstream of the "Snow Lakes Trailhead" parking lot): Closed waters.

(e) From the Icicle Irrigation Peshastin District footbridge upstream, and tributaries: Selective gear rules.

(163) **Indian Creek (Yakima County)**: From the mouth to the waterfall approximately six miles upstream including that portion that flows through the dry lake bed of Rimrock Reservoir: Closed waters.

(164) **Ingalls Creek (Chelan County)**: From the mouth to Alpine Lakes Wilderness boundary and tributaries: Closed waters.

(165) **Jameson Lake (Douglas County)**: Open the fourth Saturday in April through October 31.

(166) **Jasmine Creek (Okanogan County)**:

(a) Open year-round to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(b) Game fish: Statewide minimum length/daily limit, except:
Steelhead: Closed to fishing.

(167) **Jefferson Park Pond (Walla Walla County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(168) **Jolanda, Lake (Chelan County)**: Closed waters.

(169) **Kachess Lake (Reservoir) (Kittitas County)**:

(a) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

(170) **Kachess River (Kittitas County)**:

(a) From Kachess Lake (Reservoir) upstream to the waterfall approximately 0.5 miles above Mineral Creek: Closed waters.

(b) It is permissible to fish up to the base of Kachess Dam.

(c) From the mouth to Kachess Dam: Selective gear rules.

(171) **Keechelus Lake (Reservoir) (Kittitas County)**:

(a) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

(172) **Kettle Creek (tributary to American River) (Yakima County)**: Closed waters.

(173) **Kettle River (Stevens County)**: From Barstow Bridge upstream:

(a) Selective gear rules, except for juvenile anglers, from the Canadian border upstream to Highway 21 Bridge at Curlew.

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

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(d) Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(174) **Kings Lake and tributaries (Pend Oreille County)**: Closed waters.

(175) **Kiwanis Pond (Kittitas County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(176) **Lake Creek (Okanogan County)**:

(a) From the mouth to Black Lake: Closed waters.

(b) From Black Lake to Three Prong Creek: Closed waters.

(177) **Ledbetter Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(178) **Ledking Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(179) **Leech Lake (Yakima County)**:

(a) Fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 1; minimum length 18 inches.

(180) **Lemna Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(181) **Lenice Lake (Grant County)**:

(a) Open March 1 through November 30.

(b) Selective gear rules.

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

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(182) **Lenore Lake (Grant County)**:

(a) The waters within a 200 yard radius of the trash rack leading to the irrigation pumping station (on the south end of the lake) and the area approximately 100 yards beyond the mouth of inlet stream to State Highway 17: Closed waters.

(b) Open March 1 through November 30.

(c) Selective gear rules.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(183) **Libby Creek (tributary to Methow River) (Okanogan County)**: Closed waters.

(184) **Liberty Lake (Spokane County)**: Open March 1 through October 31.

(185) **Lilly Lake (Chelan County)**:

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(186) **Lions Park Pond (Walla Walla County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(187) **Little Bridge Creek (tributary of Twisp River) (Okanogan County)**:

- (a) Open the Saturday before Memorial Day through August 15.
- (b) Release all fish.
- (c) Selective gear rules.

(188) **Little Falls Reservoir (Spokane River) (Lincoln County)**: From Little Falls Dam to Long Lake Dam: Landlocked salmon rules.

(189) **Little Lost Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(190) **Little Naches River including tributaries (Yakima County)**: Selective gear rules.

(191) **Little Pend Oreille River and tributaries (Stevens County)**: Selective gear rules.

(192) **Little Spokane River and tributaries (Spokane County)**:

- (a) From the inlet of Chain Lake upstream 0.25 mile to the railroad crossing culvert: Closed waters.
- (b) From the SR 291 Bridge upstream:
 - (i) Open Saturday before Memorial Day through October 31.
 - (ii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.

(193) **Little Twin Lake (Okanogan County)**:

- (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except:
 - (i) Trout: Daily limit 1; minimum length 18 inches.
 - (ii) Eastern brook trout count as part of trout daily limit.
- (194) **Little Twin Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

(195) **Little Wenatchee River (Chelan County)**:

- (a) From the mouth to USFS road 6700 Bridge and tributaries: Closed waters.
- (b) From the USFS road 6700 Bridge upstream including tributaries: Selective gear rules.

(196) **Long Lake (Ferry County)**:

- (a) Open the fourth Saturday in April through October 31.
- (b) Fly fishing only.
- (c) It is unlawful to use flies containing lead.
- (d) It is unlawful to fish from a floating device equipped with a motor.

(197) **Long Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

(198) **Long Lake (Lake Spokane) (Spokane County)**: From Long Lake Dam to Nine Mile Dam, including Little Spokane River from the mouth to the SR 291 Bridge: Landlocked salmon rules.

(199) **Loon Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

(200) **Lost Lake (Kittitas County)**: Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 2; minimum length 14 inches.

(201) **Lost Lake (Okanogan County)**:

- (a) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (202) **Lost River (tributary to Methow River) (Okanogan County):**
- (a) From the mouth to the mouth of Monument Creek: Closed waters.
- (b) From the mouth of Monument Creek including tributaries upstream to Deception Creek:
- (i) Open the Saturday before Memorial Day through August 15.
- (ii) Selective gear rules.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Minimum length 14 inches; daily limit 2.
- (B) Dolly Varden/bull trout may be retained as part of trout daily limit.
- (203) **Lyman Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (204) **Mad River (Chelan County):**
- (a) From the mouth to Windy Creek, including Windy Creek and tributaries except Tillicum Creek: Closed waters.
- (b) From Windy Creek upstream and tributaries: Selective gear rules.
- (205) **Manastash Creek (Kittitas County):** Selective gear rules.
- (206) **Marshall Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (207) **Martha Lake (Grant County):** Open March 1 through September 30.
- (208) **Mary Ann Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (209) **Mattoon Lake (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (210) **McCabe Pond (Kittitas County):** It is unlawful to fish from any floating device equipped with a motor.
- (211) **McDowell Lake (Stevens County):**
- (a) Open the fourth Saturday in April through October 31.
- (b) Fly fishing only.
- (c) It is unlawful to fish from a floating device equipped with a motor.
- (d) Release all fish.
- (212) **McManaman Lake (Adams County):** Open the fourth Saturday in April through September 30.
- (213) **Medical Lake (Spokane County):**
- (a) Open March 1 through November 30.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with a motor.
- (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (214) **Medical Lake, West (Spokane County):** Open the fourth Saturday in April through September 30.
- (215) **Mercer Creek (Kittitas County):** Selective gear rules.
- (216) **Merry Lake (Grant County):**
- (a) Open March 1 through November 30.
- (b) Selective gear rules.

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

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(217) **Methow River (Okanogan County):**

(a) From mouth to County Road 1535 (Burma Road) Bridge: Closed waters.

(b) Tributaries from mouth to County Road 1535 (Burma Road) Bridge except Black Canyon Creek:

(i) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(ii) Steelhead: Closed to fishing.

(c) From County Road 1535 (Burma Road) Bridge to Gold Creek:

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

(ii) Selective gear rules.

(iii) Release all fish.

(iv) Steelhead: Closed to fishing.

(d) All tributaries from the County Road 1535 (Burma Road) to Gold Creek except Gold Creek:

(i) Selective gear rules.

(ii) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(iii) Steelhead: Closed to fishing.

(e) From Gold Creek to Foghorn Dam:

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

(ii) Selective gear rules.

(iii) Release all fish.

(iv) Steelhead: Closed to fishing.

(v) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(f) Methow River tributaries from Gold Creek to Foghorn Dam; except Twisp River, Chewuch River, Libby Creek, and Beaver Creek:

(i) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(ii) Steelhead: Closed to fishing.

(g) From Foghorn Dam to Weeman Bridge including tributaries:

(i) Open the Saturday before Memorial Day through August 15:

(A) Release all fish.

(B) Selective gear rules.

(C) Steelhead: Closed to fishing.

(ii) Whitefish:

(A) Open December 1 through the last day in February for Whitefish only.

(B) Whitefish gear rules.

(h) From Weeman Bridge to the falls above Brush Creek: Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(i) Methow River tributaries from Weeman Bridge to the falls above Brush Creek; excluding Lost River, Goat Creek, Early Winters Creek, and Wolf Creek:

(i) Selective gear rules.

(ii) Release all fish.

(iii) Steelhead: Closed to fishing.

- (218) **Mill Creek (tributary to the Walla Walla River) (Walla Walla County):**
- (a) From the mouth to Bennington Dam, including tributaries: Closed waters.
 - (b) From Bennington Dam upstream excluding tributaries: Selective gear rules.
 - (c) All tributaries upstream of Bennington Dam: Closed waters.
- (219) **Mineral Creek (tributary to upper Kachess River) (Kittitas County):** From the mouth to the Wilderness Boundary: Closed waters.
- (220) **Molson Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (221) **Monument Creek (Okanogan County), including tributaries:** Selective gear rules.
- (222) **Morgan Lake (Adams County):** Open the fourth Saturday in April through September 30.
- (223) **Moses Lake (Grant County):** Game fish: Statewide minimum length/daily limit, except:
- (a) Crappie: Daily limit 10; minimum length 9 inches.
 - (b) Bluegill: Daily limit 5; minimum length 8 inches.
 - (c) Yellow perch: Daily limit 25.
- (224) **Mud Lake (Yakima County):**
- (a) Selective gear rules.
 - (b) It is unlawful to fish from a floating device equipped with a motor.
 - (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (225) **Mudgett Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (226) **Muskegon Lake (Pend Oreille County):**
- (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (227) **Myron Lake (Yakima County):**
- (a) Selective gear rules.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (228) **Mystic Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (229) **Naches River (Yakima/Kittitas counties):**
- (a) From the mouth to Little Naches River:
 - (i) Selective gear rules.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Game fish: Statewide minimum length/daily limit, except:
 - (A) Trout: Daily limit 2; minimum length 14 inches.
 - (B) Release trout from the confluence with Tieton River to the confluence of the Little Naches River and Bumping River (origin of Naches River).
 - (b) From the mouth to the Tieton River:
 - (i) Whitefish: December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(230) **Naneum Creek and tributaries (Kittitas County)**: Selective gear rules.

(231) **Naneum Pond (Kittitas County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(232) **Napeequa River (Chelan County)**: From mouth to Twin Lakes Creek (including Twin Lakes Creek and all tributaries): Closed waters.

(233) **Nason Creek (Chelan County)**:

(a) From the mouth to Gaynor Falls and tributaries except White-pine Creek: Closed waters.

(b) From Gaynor Falls (approximately 0.7 miles upstream of White-pine Creek) upstream and tributaries: Selective gear rules.

(234) **Nile Creek and tributaries (Yakima County)**: Selective gear rules.

(235) **No Name Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(236) **North Creek (tributary to Twisp River) (Okanogan County)**: From the mouth upstream to Twisp River Road Bridge: Closed waters.

(237) **North Elton Pond (Yakima County)**:

(a) Open the Friday after Thanksgiving through March 31.

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

(238) **North Potholes Reserve Ponds (Grant County)**: Open March 1 through the day before waterfowl season begins.

(239) **Nunnally Lake (Grant County)**:

(a) The outlet stream of Nunnally Lake is closed waters.

(b) Open March 1 through November 30.

(c) Selective gear rules.

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

(e) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(240) **Oak Creek and tributaries (Yakima County)**: Selective gear rules.

(241) **Okanogan River (Okanogan County)**:

(a) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

(i) Salmon: Open July 1 through October 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and no more than 4 sockeye may be retained.

(B) Release (~~((sockeye- τ))~~) coho(τ) and wild adult Chinook.

(ii) July 1 through October 15: Anti-snagging rule and night closure.

(iii) Game fish: Open year-round. Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(b) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

(i) Salmon: Open July 1 through September 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and no more than 4 sockeye may be retained.

(B) Release (~~((sockeye- τ))~~) coho(τ) and wild adult Chinook.

(ii) July 1 through September 15: Anti-snagging rule and night closure.

(iii) Game fish: Open year-round. Statewide minimum length/daily limit, except:

- (A) Release trout.
- (B) Steelhead: Closed to fishing.

(c) From the highway bridge at Malott (~~upstream~~) to the Highway 97 Bridge at Oroville:

(i) (~~From Zosel Dam downstream to the first Highway 97 Bridge downstream of the dam: Closed waters.~~

~~(ii))~~ Salmon: Open July 1 through September 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and no more than 4 sockeye may be retained.

(B) Release (~~sockeye,~~) coho(~~(r)~~) and wild adult Chinook.

~~((iii))~~ (ii) July 1 through September 15: Anti-snagging rule and night closure.

~~((iv))~~ (iii) Game fish: Open the Saturday before Memorial Day through September 15. Statewide minimum length/daily limit, except:

- (A) Release trout.
- (B) Steelhead: Closed to fishing.

(d) From the Highway 97 Bridge at Oroville upstream to the Zosel Dam: Closed waters.

(e) All Okanogan River tributaries, except Salmon Creek, Jasmine Creek, Bonaparte Creek, and the Similkameen River:

(i) Selective gear rules.

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

- (A) Release trout.
- (B) Steelhead: Closed to fishing.

(242) **Osoyoos Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

(243) **Palouse River (Whitman County):** From the mouth to the base of Palouse Falls:

(a) Open year-round for game fish except trout and steelhead.

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

(c) Steelhead:

(i) Open August 1 through April 15.

(ii) Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement, except for steelhead.

(244) **Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek and Hog Canyon Creek:** Open year-round.

(245) **Pampa Pond (Whitman County):**

(a) Open March 1 through September 30.

(b) It is unlawful to fish from any floating device.

(246) **Park Lake (Grant County):** Open the fourth Saturday in April through September 30.

(247) **Parker Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(248) **Pataha Creek (Garfield County):**

- (a) Within the city limits of Pomeroy: Open to juvenile anglers, senior angler, and anglers with a disability who possess a designated harvester companion card only.
- (b) From the city limits of Pomeroy upstream: Selective gear rules.
- (249) **Pearrygin Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.
- (250) **Pend Oreille River (Pend Oreille County)**:
- (a) Open year-round.
- (b) Game fish: Statewide lake rules.
- (c) All sloughs within the boundaries of the Kalispel Reservation, except Calispell Slough: Closed waters.
- (251) **Perch Lake (Grant County)**: Open the fourth Saturday in April through September 30.
- (252) **Peshastin Creek and all tributaries except Ingalls Creek (Chelan County)**: Closed waters.
- (253) **Petit Lake (Pend Oreille County)**:
- (a) Open the fourth Saturday in April through October 31.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (254) **Phalon Lake (Stevens County)**: Closed waters.
- (255) **Phillips Lake (Stevens County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (256) **Pierre Lake (Stevens County)**: It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (257) **Pillar Lake (Grant County)**: Open the fourth Saturday in April through September 30.
- (258) **Ping Pond (Oasis Park Pond) (Grant County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (259) **Pit Lake (Douglas County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (260) **Poacher Lake (Grant County)**: Open the fourth Saturday before April through September 30.
- (261) **Potholes Reservoir (Grant County)**: Game fish: Statewide minimum length/daily limit, except:
- (a) Crappie: Minimum length 9 inches.
- (b) Crappie and bluegill: Combined limit of 25 fish.
- (c) Yellow perch: Daily limit 25 fish.
- (262) **Potter's Pond (Stevens County)**: Open the fourth Saturday in April through October 31.
- (263) **Powerline Lake (Franklin County)**: Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (264) **Quail Lake (Adams County)**:
- (a) Fly fishing only.
- (b) It is unlawful to fish from any floating device equipped with a motor.
- (c) Release all fish.
- (265) **Quarry Pond (Walla Walla County)**: It is unlawful to fish from any floating device.
- (266) **Quincy Lake (Grant County)**: Open March 1 through September 30.
- (267) **Rainbow Lake (Columbia County)**:

- (a) Open March 1 through November 30.
- (b) It is unlawful to fish from any floating device.

(268) Rat Lake (Okanogan County):

- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 2; minimum length 14 inches.

(269) Rattlesnake Creek and tributaries (Yakima County):

- (a) Selective gear rules.
- (b) Release all fish.

(270) **Red Rock Creek (Grant County):** Open the Saturday before Memorial Day through September 30.

(271) Reflection Pond (Okanogan County):

- (a) Open the fourth Saturday in April through October 31.
- (b) Game fish: Statewide minimum length/daily limit, except:

Eastern brook trout count as part of trout daily limit.

(272) Renner Lake (Ferry County):

- (a) Open the fourth Saturday in April through October 31.
- (b) Game fish: Statewide minimum length/daily limit, except:

Eastern brook trout count as part of trout daily limit.

(273) Rigley Lake (Stevens County):

- (a) Open the fourth Saturday in April through October 31.
- (b) Selective gear rules.

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

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

Trout: Daily limit 2, minimum length 14 inches.

(274) **Rimrock Lake (Reservoir) (Yakima County):** Chumming is permissible.

(275) **Ringold Springs Hatchery Creek (Franklin County):** Closed waters.

(276) **Roaring Creek (Entiat River tributary) (Chelan County):** Closed waters.

(277) Rock Creek (Adams/Whitman counties):

- (a) From the mouth to the bridge on Jordan Knott Road at Revere:

- (i) Selective gear rules.
- (ii) Release all fish.

(b) From the bridge on Jordan Knott Road upstream: Open year-round.

(278) Rocky Ford Creek and Ponds (Grant County):

(a) Open to fly fishing and fishing from the bank only (no wading).

- (b) Release all fish.

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

(280) **Roosevelt Lake (Grant/Ferry/Lincoln/Stevens counties):** Columbia River from Grand Coulee Dam to U.S. Canadian border including Hawk Creek downstream of the falls at Hawk Creek Campground, Spokane River from 400 feet downstream of Little Falls Dam, Kettle River downstream of Barstow Bridge, and Colville River downstream of S.R. 25 Bridge.

- (a) The following areas are closed waters:

(i) From the Little Dalles power line crossing upstream approximately one mile to the marked rock point from March 1 through the Friday before Memorial Day.

(ii) Northport power line crossing upstream to the most upstream point of Steamboat Rock, from March 1 through the Friday before Memorial Day.

(iii) The Kettle River upstream to Barstow Bridge from March 1 through the Friday before Memorial Day.

(b) From Grand Coulee Dam to the Little Dalles power line crossing:

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

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(C) Walleye: Daily limit 16 fish; no size restrictions.

(ii) Salmon:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

(c) From the Little Dalles power line crossing to the Canadian border:

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

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 2; minimum size 18 inches.

(C) Walleye: Daily limit 16; no size restrictions.

(ii) Salmon:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

(281) **Round Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

(282) **Royal Lake (Adams County)**: Closed waters.

(283) **Royal Slough (including Marsh Unit IV impoundments) (Adams County)**: Closed waters.

(284) **Rufus Woods Lake (Douglas/Okanogan counties)**:

(a) From Grand Coulee Dam downstream to State Route 155 Bridge: Closed waters.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2.

(c) Sturgeon: Closed to fishing.

(d) A nonmember fishing permit issued by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods.

(e) A Colville tribal member identification card satisfies the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods.

(285) **Sacheen Lake (Pend Oreille County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(286) **Saddle Mountain Lake (Grant County)**: Closed waters.

(287) **Sago Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(288) **Salmon Creek (Okanogan County)**:

(a) From the mouth to Conconully Reservoir:

(i) Selective gear rules.

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

(A) Release trout other than eastern brook trout.

(B) Steelhead: Closed to fishing.

(b) From Conconully Reservoir upstream including tributaries: Selective gear rules.

(289) **San Poil River (Ferry County)**:

(a) From the western shoreline at the mouth of the San Poil Arm (as marked by a regulatory buoy) directly eastward across the San Poil Arm to the eastern shoreline of the San Poil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Open June 1 through January 31 for kokanee, smallmouth bass, trout, and walleye:

(I) Kokanee: Daily limit 2.

(II) Trout: Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(III) Walleye: Daily limit 16; no size restrictions.

(IV) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(B) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

(iii) Carp: Open year-round.

(b) From the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek to approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Kokanee: Unlawful to fish for or retain.

(B) Trout: Unlawful to fish for or retain.

(C) Open June 1 through January 31 for walleye and smallmouth bass:

(I) Walleye: Daily limit 16; no size restrictions.

(II) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(D) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round; landlocked salmon rules apply.

(iii) Carp: Open year-round; unlawful to fish for carp with bow and arrow.

(c) The waters from approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys, to all waters north of the regulatory buoy line at or above 1,310 feet mean sea level elevation upstream to the northern reservation boundary are managed under the regulatory authority of the Colville Confederated Tribes.

(290) Sand Hollow Creek (Grant County) including tributaries:

From the mouth (State Route 243) upstream: Open the Saturday before Memorial Day through September 30.

(291) Sarg Hubbard Park Pond (Reflection Pond) (Yakima County):

Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(292) Schallow Pond (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(293) Sedge Lake (Grant County):

- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (294) **Shellneck Creek (Yakima County)**: Closed waters.
- (295) **Sherman Creek (Ferry County) and tributaries**: From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed waters.
- (296) **Shiner Lake (Adams County)**: Open the fourth Saturday in April through September 30.
- (297) **Shoveler Lake (Grant County)**: Open the fourth Saturday in April through September 30.
- (298) **Silver Lake (Spokane County)**: Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.
- (299) **Silver Nail Lake (Okanogan County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (300) **Similkameen River (Okanogan County)**:
 - (a) From Enloe Dam downstream 400 feet: Closed waters.
 - (b) From the mouth to Enloe Dam:
 - (i) Open July 1 through September 15.
 - (ii) Salmon: Daily limit 6; up to 2 adult hatchery Chinook and up to 4 sockeye may be retained. Release ((~~soekeye,~~) coho((~~r~~)) and wild adult Chinook:
 - (A) Anti-snagging rule.
 - (B) Night closure.
 - (v) Game fish: Statewide minimum length/daily limit, except:
 - (A) Release trout.
 - (B) Steelhead: Closed to fishing.
 - (vi) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
 - (c) From Enloe Dam to the Canadian border, including tributaries, except Sinlahekin Creek:
 - (i) Open the Saturday before Memorial Day through October 31.
 - (ii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
 - (301) **Sinlahekin Creek (Okanogan County)**: From Palmer Lake to Cecile Creek Bridge:
 - (a) Open the Saturday before Memorial Day through August 31.
 - (b) Selective gear rules.
 - (c) Whitefish:
 - (i) Open December 1 through the last day in February for whitefish only.
 - (ii) Whitefish gear rules.
 - (302) **Skookum Lake, North (Pend Oreille County)**: Open the fourth Saturday in April through October 31.
 - (303) **Skookum Lake, South (Pend Oreille County)**:
 - (a) Open the fourth Saturday in April through October 31.
 - (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
 - (304) **Snake River**:
 - (a) Tributaries except Palouse River, Tucannon River, Asotin Creek, and Grande Ronde River: Closed waters.

- (b) Columbia River rules apply downstream of the Burbank-to-Pasco railroad bridge at Snake River mile 1.5.
- (c) Within 400 feet of the base of any dam: Closed waters.
- (d) Within a 400 foot radius around the fish ladder entrance at Lyons Ferry Hatchery: Closed waters.
- (e) Within a 200 foot radius upstream of the fish ladder exit above Lower Granite Dam: Closed waters.
- (f) Within an area 1,200 feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and 100 feet out into the river from the south river bank: Closed waters.
- (g) Game fish: Open year-round; statewide minimum length/daily limit, except:
- (i) Trout: Open the Saturday before Memorial Day through October 31.
- (ii) Steelhead:
- (A) Open July 1 through August 31; catch and release only. Barbless hooks required.
- (B) Open September 1 through March 31; Daily limit 3 hatchery steelhead; barbless hooks required.
- (C) April 1 through June 30; closed to fishing.
- (305) **Snipe Lake (Grant County)**: Open the fourth Saturday in April through September 30.
- (306) **Snipes Creek (Benton County)**: Selective gear rules.
- (307) **South Columbia Basin Irrigation PE16.4 spillway at the Ringold Springs access downstream 400' towards the Columbia River. (46°30'20.0"N 119°15'28.7"W) (Franklin County)**: Closed waters.
- (308) **Spectacle Lake (Okanogan County)**: Open April 1 through September 30.
- (309) **Spokane River (Spokane County)**: From Nine Mile Dam upstream to the Idaho/Washington state line:
- (a) Selective gear rules.
- (b) Open the Saturday before Memorial Day through March 15.
- (c) Game fish: Release all fish, except: Hatchery rainbow trout: Daily limit 2.
- (310) **Sprague Lake (Adams/Lincoln counties)**:
- (a) The following waters are closed waters:
- (i) Cow Creek.
- (ii) The marsh at the southwest end of the lake from the lakeside edge of the reeds, including Cow Creek, to Danekas Road.
- (iii) The small bay at the southeast end of the lake.
- (b) All other waters southwest of the southwest tip of Harper Island: Closed from October 1 through April 30.
- (c) Game fish: Statewide minimum length/daily limit except:
- (i) Crappie: Minimum length 9 inches.
- (ii) Crappie and bluegill: Combined limit of 25 fish.
- (311) **Spring Creek (Benton County)**: Selective gear rules.
- (312) **Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County)**:
- (a) Open the fourth Saturday in April through October 31.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1, minimum length 18 inches.
- (313) **Spring Lake (Columbia County)**: It is unlawful to fish from any floating device.

- (314) **Spring Lakes (Upper and Lower) (Grant County)**: Open March 1 through September 30.
- (315) **Springdale Pond (Lucky Duck Pond) (Stevens County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (316) **Spruce Creek (tributary to South Fork Tieton River) (Yakima County)**: Closed waters.
- (317) **Starvation Lake (Stevens County)**: Open the fourth Saturday in April through October 31.
- (318) **Starzman Lakes (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (319) **Stehekin River (Chelan County)**: From the mouth (Powerline crossing) upstream and tributaries:
- (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat.
- (320) **Stratford/Brook Lake (Grant County)**: Open March 1 through September 30.
- (321) **Sugarloaf Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (322) **Sullivan Creek and tributaries (Pend Oreille County)**:
- (a) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout.
 - (b) Selective gear rules.
- (323) **Sullivan Lake (Pend Oreille County)**: Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
- (324) **Summit Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (325) **Summit Lake (Stevens County)**: Open the fourth Saturday in April through October 31.
- (326) **Swan Lake (Ferry County)**: It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (327) **Swauk Creek and tributaries (Kittitas County)**: Selective gear rules.
- (328) **Taneum Creek and tributaries (Kittitas County)**: Selective gear rules.
- (329) **Teal Lakes (North and South) (Grant/Adams counties)**: Open the fourth Saturday in April through September 30.
- (330) **Teaway River (Kittitas County), and tributaries except North Fork**: Selective gear rules.
- (331) **Teaway River, North Fork (Kittitas County)**:
- (a) From the mouth to Beverly Creek and tributaries; including Beverly Creek:
 - (i) Selective gear rules.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Release trout.
 - (b) From Beverly Creek to the impassable waterfall at the end of USFS Road 9737: Closed waters.
- (332) **Tern Lake (Grant County)**:
- (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(333) **Thirtymile Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to falls (approximately 700 feet): Closed waters.

(334) **Tieton River (Yakima County):**

(a) It is permissible to fish up to the base of Tieton (Rimrock) Dam.

(b) Selective gear rules apply.

(335) **Tieton River, North Fork (Yakima County):**

(a) From mouth to USFS Road 740 Bridge:

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

(ii) Selective gear rules.

(b) The Clear Lake spillway channel: Closed waters.

(c) From the USFS Road 740 Bridge to Clear Lake Dam: Closed waters.

(d) The mainstem and tributaries including that portion of the river that flows through the dry lakebed of Rimrock Reservoir, upstream of Clear Lake:

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

(ii) Selective gear rules.

(336) **Tieton River, South Fork (Yakima County):** From the bridge on USFS Road 1200 to bridge on USFS road 1070: Closed waters.

(337) **Tillicum Creek (tributary to Mad River) (Chelan River):**

(a) From mouth to the intersection of USFS 5800 and USFS 5808: Closed waters.

(b) From the intersection of USFS 5800 and USFS 5808 upstream (upstream 2.25 miles) including tributaries: Selective gear rules.

(338) **Touchet River and tributaries (Columbia/Walla Walla counties):**

(a) From the mouth to the confluence of the North and South Forks:

(i) All tributaries: Closed waters.

(ii) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:

(A) November 1 through April 15: Release all fish except steelhead.

(B) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.

(b) From the confluence of the North and South Forks upstream including both forks, Robinson Fork, and Wolf Fork:

(i) All other tributaries: Closed waters.

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

(iii) Selective gear rules.

(339) **Trout Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(340) **Tucannon River (Columbia County):**

(a) All tributaries are closed waters, except Pataha Creek.

(b) Mouth upstream to Tucannon Hatchery Road Bridge:

(c) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:

(i) November 1 through April 15: Release all fish except steelhead.

(ii) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.

(d) Tucannon Hatchery Bridge to 500 feet above intake for Rainbow Lake: Closed waters.

(e) 500 feet above intake for Rainbow Lake to Cow Camp Bridge:

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

- (ii) Selective gear rules.
- (f) Cow Camp Bridge upstream: Closed waters.

(341) Tucquala Lake (Kittitas County):

- (a) Open the Saturday before Memorial Day through October 31.
- (b) Statewide stream rules apply.

(342) Twentymile Creek (tributary to Chewuch River) (Okanogan County): From the mouth upstream to falls (approximately 0.75 miles): Closed waters.

(343) Twin Lakes, tributaries, and Twin Lakes Creek (outlet stream) to the confluence with the Napeequa River (Chelan County): Closed waters.

(344) Twisp River (Okanogan County):

- (a) Mouth to War Creek:
 - (i) Open the Saturday before Memorial Day through August 15.
 - (ii) Selective gear rules.
 - (iii) Release all fish.
- (b) Twisp River tributaries from War Creek upstream except North Creek and North Fork Twisp River:
 - (i) Selective gear rules.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Release all fish.
- (c) From War Creek upstream: Closed waters.

(345) Twisp River, North Fork (Okanogan County): From mouth to falls including tributaries: Closed waters.

(346) Umtanum Creek (Kittitas County): Selective gear rules.

(347) Union Creek (Yakima County): From the mouth to the falls: Closed waters.

(348) Upper Wheeler Reservoir (Chelan County):

- (a) Open the fourth Saturday in April through October 31.
- (b) Fly fishing only.
- (c) It is unlawful to fish from a floating device equipped with a motor.
- (d) Release all fish.

(349) Vic Meyers (Rainbow) Lake (Grant County):

- (a) Open the fourth Saturday in April through September 30.
- (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(350) Walla Walla River (Walla Walla County): From mouth to Washington/Oregon stateline:

- (a) All tributaries except Touchet River and Mill Creek: Closed waters.
- (b) Game fish: Open year-round; statewide minimum length/daily limit, except for trout and steelhead:
 - (i) Trout: Open the Saturday before Memorial day through October 31; statewide minimum length/daily limit.
 - (ii) Steelhead:
 - (A) Open the Saturday before Memorial Day through July 31; daily limit 2 hatchery steelhead.
 - (B) Open August 1 through April 15; daily limit 3 hatchery steelhead, barbless hooks required.

(351) Wannacut Lake (Okanogan County): Open the fourth Saturday in April through October 31.

(352) Wapato Lake (Chelan County): Open the fourth Saturday in April through October 31.

(353) Ward Lake (Ferry County):

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

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(354) **Warden Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(355) **Warden Lake, South (Grant County)**: Open the fourth Saturday in April through September 30.

(356) **Washburn Island Pond (Okanogan County)**:

(a) Open April 1 through September 30.

(b) An internal combustion motor may be attached to a floating device, but cannot be used.

(357) **Washburn Lake (Okanogan County)**:

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

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(c) Selective gear rules.

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

(358) **Watson Lake (Columbia County)**:

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

(359) **Wenaha River tributaries**:

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

(b) Selective gear rules.

(360) **Wenas Creek (Yakima County)**: From the mouth to Wenas Lake, including tributaries: Selective gear rules.

(361) **Wenatchee Lake (Chelan County)**:

(a) Selective gear rules.

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

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(iii) Kokanee: Closed to fishing.

(362) **Wenatchee River (Chelan County)**:

(a) From the mouth to the Icicle Road Bridge:

(i) Game fish: Closed to fishing.

(ii) Salmon: Open August 1 through September 30:

(A) Daily limit 6; up to 2 adult hatchery Chinook may be retained.

(B) Release sockeye, coho, and wild adult Chinook.

(iii) Night closure.

(iv) Selective gear rules, except bait allowed.

(b) From Icicle Road Bridge upstream to Lake Wenatchee: Closed waters.

(363) **Whitepine Creek (Chelan County)**: From the mouth to Whitepine Creek Falls (1 mile upstream of mouth) and tributaries: Closed waters.

(364) **White River (Chelan County)**: From the mouth to White River Falls and tributaries, except Napeequa River: Closed waters.

(365) **Widgeon Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(366) **Williams Lake (Spokane County)**: Open the fourth Saturday in April through September 30.

(367) **Williams Lake (Stevens County)**: Open the Friday after Thanksgiving through March 31.

(368) **Wilson Creek (Kittitas County)**: From BNSF railroad bridge upstream: Selective gear rules.

(369) **Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve)**: Open March 1 through September 30.

(370) **Wolf Creek (Methow River tributary) (Okanogan County):**

Closed waters.

(371) **Yakima River (Yakima County):**

(a) Downstream of Highway 240 Bridge ~~((7))~~: Columbia River rules apply.

(b) From the Highway 240 Bridge to ~~((the downstream side of the westbound I-82 Bridge))~~ 400 feet downstream of the Horn Rapids (Wanawish) Dam:

(i) Open March 1 through October 31.

~~((i))~~ (ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for salmon and steelhead.

(v) Salmon: Open September 1 through October 31.

(A) Daily limit 6; up to 2 adults may be retained.

(B) Release all salmon other than Chinook and coho.

(C) Night closure.

(c) From 400 feet downstream of the Horn Rapids (Wanawish) Dam to the dam: Closed waters.

(d) From the Horn Rapids (Wanawish) Dam to 200 feet downstream of the USBR Chandler Powerhouse:

(i) Open March 1 through October 31.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for salmon and steelhead.

(v) Salmon: Open September 1 through October 31.

(A) Daily limit 6; up to 2 adults may be retained.

(B) Release all salmon other than Chinook and coho.

(C) Night closure.

(e) From 200 feet downstream of the USBR Chandler Powerhouse to 200 feet upstream of the Chandler Powerhouse:

(i) Open March 1 through August 31.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for steelhead.

(v) September 1 through October 31: Closed waters.

(f) From 200 feet upstream of the Chandler Powerhouse to the downstream side of the westbound I-82 Bridge in Prosser:

(i) Open March 1 through October 31.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for salmon and steelhead.

~~((e))~~ (v) Salmon: Open September 1 through October 31.

(A) Daily limit 6; up to 2 adults may be retained.

(B) Release all salmon other than Chinook and coho.

(C) Night closure.

(g) From the downstream side of the westbound I-82 Bridge in Prosser to the Grant Avenue Bridge in Prosser ~~((downstream approximately 1.25 miles to the downstream side of the westbound I-82 Bridge))~~:

(i) Open March 1 through October 31.

~~((i))~~ (ii) Chumming is permissible.

~~((ii))~~ (iii) Fishing from a floating device is prohibited September 1 through October 31.

~~((iii))~~ (iv) Game fish: Statewide minimum size/daily limit, except: Release trout.

~~((iv))~~ (v) Barbless hooks required for salmon and steelhead.

~~((d))~~ (vi) Salmon: Open September 1 through October 31.

(A) Daily limit 6; up to 2 adults may be retained.

(B) Release all salmon other than Chinook and coho.

(C) Night closure.

(h) From Grant Avenue Bridge to Prosser Dam: Closed waters.

~~((e))~~ (i) From Prosser Dam to Highway 223 Bridge:

(i) Open March 1 through October 31.

(ii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iii) Barbless hooks required for steelhead.

~~((f))~~ (j) From Highway 223 Bridge to ~~(3,500 feet below Roza Dam:~~

~~(i))~~ 400 feet below the Sunnyside (Parker) Dam:

(i) Selective gear rules.

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

Trout: Minimum length 14 inches.

(iii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(k) From 400 feet below the Sunnyside (Parker) Dam to the dam:

Closed waters.

(l) From the Sunnyside (Parker) Dam to the Yakima Avenue-Terrace Heights Bridge:

(i) Selective gear rules.

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

Trout: Minimum length 14 inches.

(iii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(m) From Yakima Avenue-Terrace Heights Bridge upstream 400 feet:

Closed waters.

~~((ii))~~ (n) From 400 feet upstream of the Yakima Avenue-Terrace Heights Bridge to 3,500 feet below Roza Dam:

(i) Selective gear rules.

~~((iii))~~ (ii) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

~~((iv))~~ (iii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

~~((g))~~ (o) From 3,500 feet below Roza Dam to Roza Dam: Closed waters.

~~((h))~~ (p) From Roza Dam to the U.S. Bureau of Reclamation restricted area signs: Open year-round.

(i) Selective gear rules.

(ii) Internal combustion motors are prohibited.

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

Release trout.

(iv) Whitefish: December 1 through the last day in February: Whitefish gear rules.

(q) From the U.S. Bureau of Reclamation restricted area signs to the boat launch ramp on the Roza Access Area (approximately 1.3 river miles): Open year-round.

(i) Selective gear rules.

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

(iii) Whitefish: December 1 through the last day in February: Whitefish gear rules.

(r) From the boat launch ramp on the Roza Access Area (approximately 1.3 river miles) to 400 feet below Easton Dam; including the portion of Wilson Creek from the mouth upstream to the BNSF railroad bridge: Open year-round.

~~(i) ((It is permissible to fish from floating devices equipped with motors only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately 1.3 river miles)).~~

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

~~((iii)) (ii) Game fish: Statewide minimum length/daily limit, except: Release trout.~~

~~((iv)) (iii) Whitefish: December 1 through the last day in February: Whitefish gear rules.~~

~~((i)) (s) From 400 feet below Easton Dam to the dam: Closed waters.~~

(t) From Easton Dam to the base of Keechelus Dam including Easton Lake:

(i) Selective gear rules.

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

(372) Yakima Sportsmen's Park Ponds (Yakima County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(373) Yocum Lake (Pend Oreille County):

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

(b) It is unlawful to use lead weights or lead jigs that measure 1.5 inches or less along the longest axis.

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

[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), § 220-312-050, 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), § 220-312-050, filed 7/2/21, effective 8/2/21; WSR 20-14-052 (Order 20-97), § 220-312-050, 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), § 220-312-050, 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), § 220-312-050, 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), § 220-312-050, 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), § 220-312-050, 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), § 220-312-050, 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, § 220-312-050, filed 8/8/17,

effective 9/8/17; WSR 17-05-112 (Order 17-04), recodified as § 220-312-050, filed 2/15/17, effective 3/18/17; WSR 16-23-002 (Order 16-280), § 220-310-195, filed 11/2/16, effective 12/3/16. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 16-06-073 (Order 16-30), § 220-310-195, 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), § 220-310-195, 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), § 220-310-195, 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), § 220-310-195, 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), § 220-310-195, filed 2/4/14, effective 3/7/14.]

OTS-4536.1

AMENDATORY SECTION (Amending WSR 22-14-054, filed 6/29/22, effective 7/30/22)

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 ((24)) 20:

(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) August 21 through August 23: Closed.

(D) Open August ((25)) 24 through ((September 7)) August 27:

(I) Daily limit 2; of which 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.

((+D)) (E) August 28 through August 29: Closed.

(F) Open August 30 through September 4:

(I) Daily limit 2; of which 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.

(G) Open September ((8)) 5 through September 30:

(I) Daily limit 3.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 16 inches.

((+E)) (H) Open October 1 through October 31:

(I) Daily limit 6; up to 3 may be adults ((salmon, of which 1 may be a Chinook)).

(II) Release all salmon and steelhead except ((Chinook and)) hatchery coho.

(III) Salmon minimum length 12 inches.

((+F)) (I) Open November 1 through December 31:

(I) Daily limit 6; up to 3 adults (~~(, of which up to 1 may be a Chinook and up to)~~) including no more than 2 hatchery steelhead may be retained.

(II) Release all salmon except (~~Chinook and~~) hatchery coho.

(III) Salmon minimum length 12 inches.

~~((G))~~ (J) Open January 1 through March 31:

(I) Daily limit 6; up to 2 adult salmon, or 2 hatchery steelhead, or 1 of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(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 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 August 1 through August ~~((24))~~ 20:

(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.

(D) August 21 through August 23: Closed.

~~(E)~~ Open August ~~((25))~~ 24 through ~~((September 7))~~ August 27:

(I) Daily limit 2; of which 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.

~~((E))~~ (F) August 28 through August 29: Closed.

~~(G)~~ Open ~~((September 8))~~ August 30 through September ~~((30))~~ 4:

(I) Daily limit 2; of which 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.

(H) Open September 5 through September 30:

(I) Daily limit 3.

(II) Release all salmon and steelhead except hatchery coho.

(III) Coho minimum length 16 inches.

~~((F))~~ (I) Open October 1 through October 31:

(I) Daily limit 6; up to 3 may be adults (~~(salmon of which 1 may be a Chinook)~~).

(II) Release all salmon and steelhead except (~~Chinook and~~) hatchery coho.

(III) Salmon minimum length 12 inches.

~~((G))~~ (J) Open November 1 through December 31:

(I) Daily limit 6; up to 3 adults (~~(, of which up to 1 may be a Chinook and up to)~~) including no more than 2 hatchery steelhead may be retained.

(II) Release all salmon except (~~Chinook and~~) hatchery coho.

(III) Salmon minimum length 12 inches.

~~((H))~~ (K) 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 includes Blind Slough Select Area and Knappa Slough Select Area:**

(i) Blind Slough Select Area and Knappa Slough Select Area:

(A) 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))~~ (B) 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))~~ (C) Game fish: Statewide minimum length/daily limit, except: Release trout.

~~((B))~~ (D) 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 ~~(("))~~ inches minimum size. Release all salmon other than hatchery Chinook, hatchery coho, and hatchery steelhead. Use of barbed hooks allowed.

~~((C))~~ (E) Shad: Open year-round.

~~((iii))~~ (ii) 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))~~ (iii) 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 July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

- (D) Open August 1 through August ((24)) 20:
 (I) Daily limit 6; up to 2 may be adults of which 1 may be a Chinook ((may be retained)).
 (II) Release all salmon and steelhead except hatchery Chinook and hatchery coho.
 (E) August 21 through August 23: Closed.
 (F) Open August ((25)) 24 through ((September 7)) August 27:
 (I) Daily limit 6; up to 2 may be adults ((salmon)) of which ((only)) 1 may be a Chinook.
 (II) Release all salmon and steelhead except hatchery Chinook and hatchery coho.
 (III) Salmon minimum length 12 inches.
 ((-F)) (G) August 28 through August 29: Closed.
 (H) Open ((September 8)) August 30 through September ((30)) 4:
 (I) Daily limit 6; up to 2 may be adults of which 1 may be a Chinook.
 (II) Release all salmon and steelhead except hatchery Chinook and hatchery coho.
 (III) Salmon minimum length 12 inches.
 (I) Open September 5 through October 31:
 (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 October 1 through October 31:
 (I) Daily limit 6; up to 3 may be adult salmon, of which 1 may be a Chinook.
 (II) Release all salmon and steelhead except Chinook and hatchery coho.
 (H)) (J) Open November 1 through December 31:
 (I) Daily limit 6; up to 3 may be adults ((, of which up to 1 may be a Chinook and up to)) including no more than 2 hatchery steelhead may be retained.
 (II) Release all salmon except ((Chinook and)) hatchery coho.
 ((-I)) (K) 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)) (iv) 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 July 31:
 (I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open August 1 through September ((7)) 4:

(I) Daily limit 6; up to 2 may be adults (~~(salmon,)~~) of which 1 may be a Chinook (~~(may be retained)~~).

(II) Release all salmon and steelhead except Chinook and hatchery coho.

(E) September ((8)) 5 through September 30: Closed.

(F) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults (~~(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.

(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 July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open August 1 through September ((7)) 4:

(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 ((8)) 5 through September 30: Closed.

(F) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults (~~(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.

(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 July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(D) Open August 1 through September (~~13~~) 14:

(I) Daily limit 6; up to 2 may be adults (~~(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~~) 15 through September 30: Closed.

(F) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults (~~(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 July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open August 1 through September (~~13~~) 14:

- (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)) 15 through September 30: Closed.
- (E) Open October 1 through October 31:
- (I) Daily limit 6; up to 2 may be adults ((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)), 1 or 2 hatchery steelhead, 1 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) 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 July 31:
- (I) Daily limit 6; up to 1 hatchery steelhead may be retained.
- (II) Release all salmon except hatchery jack Chinook.
- (C) Open August 1 through September ((13)) 14:
- (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)) 15 through September 30: Closed.
- (E) Open October 1 through October 31:
- (I) Daily limit 6; up to 2 may be adults ((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)), 1 or 2 hatchery steelhead, 1 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 July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open August 1 through September ((13)) 14:

(I) Daily limit 6; up to 2 may be adults ((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)) 15 through September 30: Closed.

(E) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults ((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)), 1 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 July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open August 1 through September ((13)) 14:

(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)) 15 through September 30: Closed.

(E) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults ((salmon of which 1 may be a Chinook may be retained)).

(II) Release all salmon and steelhead except ((Chinook and)) hatchery coho.

(F) November 1 through December 31: Closed.

(G) Open January 1 through March 31:

(I) Daily limit 2 hatchery steelhead.

(II) Release all salmon.

(iii) Shad:

(A) April 1 through May 15: Closed.

(B) Open May 16 through March 31.

(m) **From a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore to a line projected from a boundary marker about 4,000 feet downstream from the fish ladder at the new Bonneville Dam Powerhouse south to the downstream end of Cascade Island and across to the Oregon angling boundary on Bradford Island (about 850 feet downstream from the fish ladder):**

(i) It is unlawful to fish from any floating device.

(ii) Closed to any method of angling except hand-casted gear from shore.

(iii) Game fish: Statewide minimum size/daily limit, except: Release all trout.

(iv) Salmon and steelhead:

(A) April 1 through June 15: Closed.

(B) Open June 16 through July 31:

(I) Daily limit 6; up to 1 hatchery steelhead may be retained.

(II) Release all salmon except hatchery jack Chinook.

(C) Open August 1 through September ((13)) 14:

(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)) 15 through September 30: Closed.

(E) Open October 1 through October 31:

(I) Daily limit 6; up to 2 may be adults ((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)) 1 or 2 hatchery steelhead, 1 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 July 31:
 - (I) Daily limit 6; up to 1 hatchery steelhead may be retained.
 - (II) Release all salmon except hatchery jack Chinook.
 - (C) Open August 1 through September (~~13~~) 14:
 - (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~~) 15 through September 30: Closed.
 - (E) Open October 1 through October 31:
 - (I) Daily limit 6; up to 2 may be adults (~~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~~), 1 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; 2 adult salmon or 1 hatchery steelhead and 1 adult salmon may be retained.
 - (II) Release all salmon except 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 may be adults (~~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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~(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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~salmon of which 1 may be a Chinook may be retained~~).

(II) Release all salmon and steelhead except (~~Chinook and~~) coho.

(G) January 1 through June 15: Closed.

(z) **From 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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~salmon of which 1 may be a Chinook may be retained~~).

(II) Release all salmon and steelhead except (~~Chinook and~~) coho.

(G) January 1 through June 15: Closed.

(aa) **From 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 or 1 hatchery steelhead and 1 adult salmon may be retained.
 - (II) Release all salmon except 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 may be adults (~~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.
- (bb) **From 400 feet below the John Day Dam fishway entrance to the upstream line of John Day Dam:** Closed waters.
- (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 or 1 hatchery steelhead and 1 adult salmon may be retained.
 - (II) Release all salmon except 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 may be adults (~~salmon of which 1 may be a Chinook may be retained~~).

(II) Release all salmon and steelhead except ((Chinook and)) coho.

(G) January 1 through June 15: Closed.

(dd) **From 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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults ((salmon of which 1 may be a Chinook may be retained)).

(II) Release all salmon and steelhead except ((Chinook and)) coho.

(G) January 1 through June 15: Closed.

(ee) **From 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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~(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.

(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.

(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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~(salmon of which 1 may be a Chinook may be retained)~~).

(II) Release all salmon and steelhead except (~~(Chinook and)~~) coho.

(G) January 1 through June 15: Closed.

(hh) **From 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 or 1 hatchery steelhead and 1 adult salmon may be retained.

(II) Release all salmon except 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 may be adults (~~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.

(ii) **From the Highway 395 Bridge at Pasco to Columbia Point (1/3 mile downstream of 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~~) September 1 through October 31: Daily limit 6; up to ((2)) 1 adult salmon may be retained. Release all salmon except Chinook and coho.

(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.

(kk) **From Columbia Point (1/3 mile downstream of the Interstate 182 Bridge) 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:

(A) Open July 1 through July 15:

(I) Daily limit 6; up to 2 may be adults. Release wild adult Chinook.

(II) Richland/Benton County side of river. Bank fishing only. Hand-casted lines from shore only.

(B) Open September 1 through October 31: Daily limit 6; up to 1 adult salmon may be retained. Release all salmon except Chinook and coho.

(ll) **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: Open October 1 through March 31: (~~Statewide minimum size/daily limit except~~) Daily limit 1. 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 December 31:

(I) Daily limit 6; up to ((2)) 1 may be an adult((s)).

(II) Release all salmon other than Chinook and coho.

(~~(ll)~~) **(mm) 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))~~ 1 may be an adult.

(B) Release all salmon except Chinook and coho.

~~((mm))~~ (nn) **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:

(A) Open October 1 through March 31: ~~((Statewide minimum size/daily limit except))~~ Daily limit 1. 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))~~ Daily limit 1. 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 December 31:

(I) Daily limit 6; up to ~~((2))~~ 1 may be an adult~~((s))~~.

(II) Release all salmon other than Chinook and coho.

~~((nn))~~ (oo) **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.**

~~((oo))~~ (pp) **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: Open October 1 through March 31: ~~((Statewide minimum size/daily limit except))~~ Daily limit 1. 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 December 31:

(I) Daily limit 6; up to ~~((2))~~ 1 may be an adult~~((s))~~.

(II) Release all salmon other than Chinook and coho.

~~((pp))~~ (qq) **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)) 1 may be an adult((s)).

(II) Release all salmon other than Chinook and coho.

~~((qq))~~ (rr) **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)) 1 may be an adult((s)).

(II) Release all salmon other than Chinook and coho.

~~((rrr))~~ (ss) **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)) 1 may be an adult((s)).

(II) Release all salmon other than Chinook and coho.

~~((ss))~~ (tt) **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.**

~~((tt))~~ (uu) **From boundary markers 650 feet below the fish ladders at Priest Rapids Dam to the upstream line of the dam: Closed waters.**

~~((uu))~~ (vv) **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)) 4 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. Release all other salmon.

~~((vv))~~ (ww) **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.**

~~((ww))~~ (xx) **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))
4 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. Release all other salmon.

((~~xx~~)) (yy) **From the boundary markers 400 feet downstream of the fish ladders at Rock Island Dam to the upstream line of the dam:** Closed waters.

((~~yy~~)) (zz) **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))
4 sockeye.

(B) Release coho and wild adult Chinook.

((~~zz~~)) (aaa) **From boundary markers 400 feet downstream of the Rocky Reach Dam fish ladders to the upstream line of Rocky Reach Dam:** Closed waters.

((~~aaa~~)) (bbb) **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))
4 sockeye.

(B) Release coho and wild adult Chinook.

((~~bbb~~)) (ccc) **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.

((~~ccc~~)) (ddd) **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))
4 sockeye.

(B) Release coho and wild adult Chinook.

((~~ddd~~)) (eee) **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))
4 sockeye.

(B) Release coho and wild adult Chinook.

((~~eee~~)) (fff) **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 October 15:

(A) Daily limit 6; up to 2 adult hatchery Chinook and up to ((2)) 4 sockeye.

(B) Release coho and wild adult Chinook.

((fff)) ggg **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-312-050.

((ggg)) hhh **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-312-050.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047. WSR 22-14-054 (Order 22-114), § 220-312-060, filed 6/29/22, effective 7/30/22. 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-4522.1

AMENDATORY SECTION (Amending WSR 22-14-054, filed 6/29/22, effective 7/30/22)

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 ~~((28))~~ 30:

(i) Daily limit 2 salmon.

(ii) Release chum, Chinook and wild coho.

~~(d) ((September 29 through last day in February): Closed.~~

~~(e) Open March 1))~~ October 1 through October 15:

(i) Daily limit 2 salmon.

(ii) Release chum and Chinook.

(e) October 16 through March 31: Closed.

(f) Open April 1 through April 30:

(i) Daily limit 2 salmon; up to 1 may be a Chinook.

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

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

(a) May 1 through June 30: Closed.

(b) Open July 1 through August 15:

(ii) Daily limit 2 salmon; up to 1 may be a Chinook.

(iii) Release chum, wild Chinook and wild coho.

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

(c) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock: Closed July 1 through August 15.

(d) Open August 16 through September ~~((28))~~ 30:

(i) Daily limit 2 salmon.

(ii) Release chum, Chinook and wild coho.

~~(e) ((September 29))~~ Open October 1 through October 15:

(i) Daily limit 2 salmon.

(ii) Release chum and Chinook.

~~(f) October 16 through April 30: Closed except in Dungeness Bay as described in this section.~~

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

(i) Open October 1 through October 31.

(ii) Daily limit 2 hatchery coho only.

(4) **Catch Record Card Area 7:**

(a) May 1 through July ~~((13))~~ 12: Closed.

(b) Open July ~~((14))~~ 13 through July ~~((16))~~ 15:

(i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.

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

(c) Waters of Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7): Closed to salmon fishing July 1 through September 30.

(d) July ~~((17))~~ 16 through ~~((August 15))~~ July 31: Closed.

(e) Open August ~~((16))~~ 1 through ~~((September 30))~~ August 31:

(i) Daily limit 2 salmon.

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

(f) Open September 1 through September 30:

(i) Daily limit 2 salmon; up to 1 may be a coho.

(ii) Release chum and Chinook.

(g) Lummi Bay: Waters east of a line from Gooseberry Point to Sandy Point: Closed the Tuesday after Labor Day through September 30.

~~((g))~~ (h) October 1 through April 30: Closed.

~~((h))~~ (i) Closed to salmon fishing in Samish Bay area described in WAC 220-313-020(7).

~~((i))~~ (j) 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 ~~((October 9))~~ September 30:

(i) Daily limit 2 salmon.

(ii) Release Chinook and chum.

(c) October ~~((10))~~ 1 through April 30: Closed.

(6) **Catch Record Card Area 8-2:**

(a) ~~((Year-round:))~~ May 1 through July 31: 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 ~~((27))~~ 26 through September ~~((5))~~ 4; only from Friday through 11:59 a.m. the following Monday of each week. Daily limit 2 salmon.

(ii) Open September ~~((10))~~ 9 through September ~~((25))~~ 24; only from Saturdays through Sundays of each week. Daily limit 2 salmon.

(c) ~~((Waters from south of a line drawn from the base of the Mukilteo fishing pier northwesterly to the base of the Clinton ferry dock. Open August 13 through September 19:~~

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

~~((ii) Release Chinook, chum, and wild coho.))~~ Open August 1 through September 24:

(i) Daily limit 2 salmon; up to 1 may be a coho.

(ii) Release chum and Chinook.

(d) September 25 through April 30: Closed.

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

(a) May 1 through July ~~((13))~~ 12: Closed.

(b) Open July ~~((14))~~ 13 through July ~~((27))~~ 31, 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))~~ August 1 through ~~((August 15))~~ September 17:

- (i) Daily limit 2 salmon (~~(; up to 1 may be a hatchery Chinook)~~).
- (ii) Release chum, wild coho, and (~~(wild)~~) Chinook.
- ~~((iii) Waters south of a line from Foulweather Bluff to Olele Point: Closed.~~
- ~~(d) Open August 16 through September 25:~~
- ~~(i) Daily limit 2 salmon.~~
- ~~(ii) Release Chinook, chum, and wild coho.~~
- ~~(e) September 26)~~
- (d) Open September 18 through September 30:
- (i) Daily limit 2 salmon.
- (ii) Release chum and Chinook.
- (e) October 1 through April 30: Closed.
- (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)~~) May 31: Closed.
- (b) Open June (~~(16)~~) 1 through July (~~(13)~~) 12:
- (i) Daily limit 2 salmon.
- (ii) Release Chinook and chum.
- (c) Open July (~~(14)~~) 13 through August 31:
- (i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.
- (ii) Release chum and wild Chinook.
- (d) Open September 1 through (~~(October 31)~~) September 30:
- (i) Daily limit 2 salmon.
- (ii) Release Chinook and chum.
- (e) Open October 1 through October 31:
- (i) Daily limit 2 salmon.
- (ii) Release Chinook.
- (f) November 1 through (~~(January 31)~~) the last day of February:
- Closed.
- ~~((f))~~ (g) Open (~~(February)~~) March 1 through (~~(March 31)~~) April 15.
- (i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.
- (ii) Release chum and wild Chinook.
- ~~((g))~~ (h) April (~~(1)~~) 16 through April 30: Closed.
- ~~((h))~~ (i) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed July 1 through August 31.
- ~~((i))~~ (j) West 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)~~) May 31: Closed.
- (ii) Open June (~~(16)~~) 1 through June 30:
- (A) Daily limit 2 salmon.
- (B) Release Chinook and chum.
- (iii) July 1 through August (~~(31)~~) 17: Closed.
- (iv) Open (~~(September 1)~~) August 18 through (~~(October 31)~~) September 30:
- (A) Daily limit 2 salmon.
- (B) Release Chinook and chum.
- (v) Open October 1 through October 31:
- (A) Daily limit 2 salmon.
- (B) Release Chinook.

~~(vi)~~ November 1 through ~~((January 31))~~ the last day of February:
Closed.

~~((vi))~~ (vii) Open ~~((February 1))~~ March 1 through ~~((March 31))~~
April 15:

(A) Daily limit 2 salmon; up to 1 may be a Chinook.

(B) Release chum and wild Chinook.

~~((vii))~~ (viii) April ~~((1))~~ 16 through April 30: Closed.

~~((j))~~ (k) East 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 ~~((16))~~ 1 through June 30:

(A) Daily limit 2 salmon.

(B) Release Chinook and chum.

(iii) July 1 through August ~~((4))~~ 3: Closed.

(iv) Open August ~~((5))~~ 4 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))~~ 17: Closed.

~~(vi)~~ Open ~~((September 1))~~ August 18 through ~~((October 31))~~ September 30:

(A) Daily limit 2 salmon.

(B) Release Chinook and chum.

(vii) Open October 1 through October 31:

(A) Daily limit 2 salmon.

(B) Release Chinook.

~~(viii)~~ November 1 through ~~((January 31))~~ the last day in February: Closed.

~~((viii))~~ (ix) Open ~~((February 1))~~ March 1 through ~~((March 31))~~
April 15:

(A) Daily limit 2 salmon; up to 1 may be a Chinook.

(B) Release chum and wild Chinook.

~~((ix))~~ (x) April ~~((1))~~ 16 through April 30: Closed.

~~((k))~~ (l) 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))~~ May 31: Closed.

(ii) Open June ~~((16))~~ 1 through ~~((June 30))~~ July 15:

(A) Daily limit 2 salmon.

(B) Release Chinook and chum.

(iii) Open July ~~((1))~~ 16 through September 30:

(A) Daily limit 3 salmon.

(B) Release chum and wild Chinook.

(iv) Open October 1 through October 31:

(A) Daily limit 2 salmon.

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

~~(v)~~ November 1 through ~~((January 31))~~ the last day of February:
Closed.

~~(vi)~~ Open ~~((February))~~ March 1 through ~~((March 31))~~ April 15:

(A) Daily limit 2 salmon; up to 1 may be a Chinook.

(B) Release wild Chinook.

~~(vii)~~ April ~~((1))~~ 16 through April 30: Closed.

~~((l))~~ (m) 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 March 31. April 1 through April 30: Closed.

~~((m))~~ (n) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier,

open year-round: Daily limit 2 salmon; up to 1 may be a Chinook salmon. Release chum.

~~((n))~~ (o) 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))~~ (p) 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 May 31: Closed.

(b) Open June 1 through September 30 (~~(: Wednesdays through Saturdays of each week only)~~).

(i) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.

(ii) Release chum and 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)) the last day of February: Closed.~~

(e) Open March 1 through April 15:

(i) Daily limit 2 salmon.

(ii) Release chum and wild Chinook.

(f) April 16 through April 30: Closed.

(g) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock:

(i) June 1 through July 31: Closed.

(ii) Open August 1 through September 30:

(A) Daily limit 2 salmon; up to 1 may be a hatchery Chinook.

(B) Release chum and wild Chinook.

~~((C) Open Wednesdays through Saturdays only.)~~

(iii) Open October 1 through October 31:

(A) Daily limit 2 salmon.

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

~~(C) Open Wednesdays through Saturdays only)~~).

(iv) ~~((Open))~~ November 1 through ~~((December 31:~~

~~(A) Daily limit 2 salmon; up to 1 may be a Chinook.~~

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

~~(v) January 1) the last day of February: Closed.~~

(v) Open March 1 through April (30: Closed.

(g)) 15:

(A) Daily limit 2 salmon; up to 1 may be a Chinook.

(B) Release coho, chum, and wild Chinook.

(vi) April 16 through April 30: Closed.

(h) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock: Open year-round. Daily limit 2 salmon; up to 1 may be a Chinook salmon. Release chum.

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

(a) May 1 through ~~((June 30))~~ July 9: Closed.

(b) 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) Open July ((1)) 10 through September 30:
 - (A) Daily limit 4 salmon.
 - (B) Release chum and wild Chinook.
- (ii) Open October 1 through October 15:
 - (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 30:
 - (A) Daily limit 4 salmon.
 - (B) Release Chinook and coho.
- (v) December 1 through April 30: Closed.

(vi) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodsport Salmon Hatchery: 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 Hoodsport 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 Hoodsport Salmon Hatchery, as long as persons follow all applicable department rules.

~~(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) July 1 through August 31: Closed.~~
- ~~(ii) Open September 1 through September 30):~~

(i) Open July 10 through July 31:

- (A) Daily limit 4 salmon.
- (B) Release chum and Chinook.
- (C) No bait allowed, 1 single-point barbless hook measuring 1/2 inch or less from point to shank.

(ii) Open August 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 October 31:
 - (A) Daily limit 4 salmon.
 - (B) Release Chinook.
- (v) Open November 1 through November 30:
 - (A) Daily limit 4 salmon.
 - (B) Release Chinook and coho.
- (vi) December 1 through April 30: Closed.

~~((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 30:~~

~~(A) Daily limit 4 salmon.~~

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

~~(v) December 1 through April 30: Closed.~~

~~(vi)) (vii) Waters north of a line true east from Broad Spit (Tarboo Bay): September ((19)) 16 through December 31: Closed.~~

((e)) (d) 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: Daily limit 2 salmon; up to 1 may be a Chinook salmon. 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: Daily limit 2 salmon; up to 1 may be a Chinook salmon. 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 22-14-054 (Order 22-114), § 220-313-060, filed 6/29/22, effective 7/30/22; 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-4531.1

AMENDATORY SECTION (Amending WSR 22-14-054, filed 6/29/22, effective 7/30/22)

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.

(iii) Waters of the Willapa Bay Control Zone area 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~~) Open.

(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, northeasterly 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 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 September 16 through (~~October 31~~) November 30:

(A) Daily limit 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~~) rule in effect.

(iv) Anti-snagging rule in effect, except any hook where the weight is molded directly to the hook such as twitching jigs, swim

jigs, or casting jigs are not allowed. Only single-point barbless hooks may be used.

(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 22-14-054 (Order 22-114), § 220-313-070, filed 6/29/22, effective 7/30/22; 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 23-10-092
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed May 3, 2023, 10:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-19-050.

Title of Rule and Other Identifying Information: Temporary worker housing (TWH). Chapter 296-307 WAC, Part L, Temporary worker housing (TWH). The department of health (DOH), in conjunction with the department of labor and industries (L&I), is proposing amendments to address the hazards of communicable diseases such as COVID-19 amongst TWH occupants.

Hearing Location(s): On June 20, 2023, at 3:00 p.m., virtual and telephonic hearing. Join electronically <https://lmi-wa-gov.zoom.us/j/85754270385?pwd=T25qTldCS3UzVi9nU3J5ZG0vQTMzZz09>, Password (if prompted) TWhouse@2; join by phone (audio only) 253-205-0468 or 253-215-8782, Meeting ID 857 5427 0385, Passcode 355402565; on June 26, 2023, at 3:00 p.m., at WSU Mount Vernon NWREC, 16650 State Route 536, Mount Vernon, WA 98273; on June 27, 2023, at 3:00 p.m., at Pybus Public Market, 3 North Worthen Street, Wenatchee, WA 98801; and on June 28, 2023, at 2:00 p.m., at Red Lion Hotel Columbia Center, 1101 North Columbia Center Boulevard, Kennewick, WA 99336. A prehearing overview will occur one hour prior to the start of each public hearing. The hearings will begin at the indicated times and will continue until all oral comments are received.

Date of Intended Adoption: July 25, 2023.

Submit Written Comments to: Cynthia Ireland, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, email Cynthia.Ireland@lmi.wa.gov, fax 360-902-5619, by 5:00 p.m., July 7, 2023.

Assistance for Persons with Disabilities: Contact Cynthia Ireland, phone 360-791-5048, fax 360-902-5619, email Cynthia.Ireland@lmi.wa.gov, by June 12, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 70.114A.065 directs DOH and L&I to adopt joint rules for the licensing, operation, and inspection of TWH.

In February 2020, Governor Inslee proclaimed a state of emergency in Washington state as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States. The virus was confirmed to spread person-to-person. Under the initial March 23, 2020, Proclamation 20-25, Stay Home-Stay Healthy, among other things, the governor enacted various forms of social and physical distancing requirements. This was followed by proclamation amendments adjusting the Stay Home-Stay Healthy order transitioning to a phased-in approach to reopening Washington state, referred to as "Safe Start Washington."

In April 2020, DOH and L&I received a petition for rule making requesting immediate rule amendments to further protect occupants in TWH and cherry harvest camps. In response to the petition and the Governor's Proclamation 20-25, Stay Home-Stay Healthy order, DOH, in conjunction with L&I, adopted emergency rules to protect occupants from COVID-19 hazards in licensed TWH. The last emergency rule expired January 14, 2023.

Throughout the duration of the emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COV-

ID-19 and similar airborne infectious disease hazards. Each emergency rule provided specific requirements responding to the needs at the time the emergency rule was adopted.

DOH and L&I have assessed the emergency rule requirements, along with input from interested parties, and are proposing amendments for permanent adoption of the following key provisions to address prevention of future outbreaks and the spread of any airborne infectious disease. These key provisions include:

- Requiring updates to the TWH management plan to be submitted to DOH and making the updated plan available to occupants. Requirements for providing the updated plan to occupants in a language or languages understood by the occupants is a current requirement;
- Specific ventilation requirements for all TWH buildings and cherry harvest tents to maximize outdoor air intake and maintaining maintenance logs and other documentation;
- Revisions to the disease prevention and control requirements include:
 - o Requiring cooperation with the local health jurisdiction and DOH in the investigation and control of cases, suspected cases, outbreaks and suspected outbreaks of communicable diseases or notifiable conditions;
 - o Changes to reporting requirements;
 - o Establishing a communicable disease and prevention response plan which includes identifying and isolating occupants with suspect and confirmed cases, and providing medical assistance; and
 - o Specific training for those responsible for executing the communicable disease and prevention response plan.

Reasons Supporting Proposal: DOH and L&I are committed to take action to help prevent the spread of communicable diseases in TWH sites. Throughout the duration of the COVID-19 emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COVID-19 and similar airborne infectious disease hazards. This information provided guidance in determining what requirements are necessary to protect TWH occupants from airborne infectious disease hazards. Based on this information and gauging the effectiveness of the nine emergency rules, DOH and L&I identified permanent amendments to protect occupants in TWH.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Statute Being Implemented: Chapter 49.17 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: Teri Neely, Tumwater, Washington, 360-902-6652; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

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 Cynthia Ireland, Administrative Regulations Analyst, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620,

phone 360-791-5048, fax 360-902-5619, email
Cynthia.Ireland@Lni.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(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: See Section 2 below for details.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: WAC 296-307-010 Definitions, clarified rule language without changing its effect.

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

Small Business Economic Impact Statement

1. Describe the rule, including: A brief history of the issue; an explanation of why the rule is needed; and a brief description of the amendments that would impose new or additional costs on affected businesses, including small businesses. DOH, in conjunction with L&I, is proposing amendments to chapter 246-358 WAC, Temporary worker housing, and chapter 296-307 WAC, Safety standards for agriculture, respectively, to address the hazards of communicable diseases amongst occupants residing in TWH. RCW 70.114A.065 requires DOH and L&I to adopt rules for the licensing, operation and inspection, and enforcement of TWH.

In February 2020, Governor Inslee proclaimed a state of emergency in Washington state in response to the novel coronavirus disease 2019 (COVID-19) pandemic. Under the initial March 23, 2020, Proclamation 20-25, Stay Home-Stay Healthy, the governor enacted various forms of social and physical distancing requirements. The proclamation identified the agriculture industry as an essential business requiring compliance with the social and physical distancing and sanitation requirements of DOH, L&I, and the Centers for Disease Control and Prevention (CDC) to lawfully operate. Proclamation 20-25 was later amended and ultimately a phased-in, county-by-county approach to reopening Washington was enacted in "Safe Start Washington," issued October 7, 2020. The governor also issued Proclamation 20-57 and 20-57.1, establishing workplace and transportation requirements for COVID-19 specific to the agriculture industry. DOH and L&I responded to the COVID-19 pandemic by adopting a series of nine emergency rules beginning May 18, 2020, to protect occupants from the COVID-19 hazards in licensed TWH. The last emergency rule expired January 14, 2023.

Some of the key provisions in the emergency rules required operators to:

- Educate occupants in a language or languages understood by the occupants on COVID-19;
- Provide occupants cloth face coverings;
- Ensure physical distancing of occupants when at housing sites, which included all cooking, eating, bathing, washing, recreational, and sleeping facilities;
- Adhere to specific ventilation requirements maximizing outdoor intake and maintaining maintenance logs and other documentation;
- Ensure frequent cleaning and disinfecting of surfaces;
- Identify and isolate occupants with suspect and confirmed positive COVID-19 cases; and

- Submit to DOH a revised TWH management plan that demonstrates how the operator will comply with the emergency rule requirements.

Throughout the duration of the emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COVID-19 and similar airborne infectious disease hazards. Each emergency rule provided specific requirements responding to the needs at the time the emergency rule was adopted.

DOH and L&I have assessed the emergency rule requirements, along with input from interested parties and propose permanent adoption of the following key provisions to address prevention of future outbreaks and the spread of any airborne infectious disease. These key provisions include:

- Requiring updates to the management plan to be submitted to DOH and making the updated plan available to occupants. Requirements for providing the updated plan to occupants in a language or languages understood by the occupants is not changing;
- Specific ventilation requirements for all TWH buildings and tents to maximize outdoor air intake and maintaining maintenance logs and other documentation;
- Revisions to the disease prevention and control requirements include:
 - Requiring cooperation with the local health jurisdiction and DOH in the investigation and control of cases, suspected cases, outbreaks, and suspected outbreaks of communicable diseases or notifiable conditions;
 - Changes to reporting requirements;
 - Establishing a communicable disease and prevention response plan which includes identifying and isolating occupants with suspect and confirmed cases, and providing medical assistance; and
 - Specific training for those responsible for executing the communicable disease and prevention response plan.

2. Identify which businesses are required to comply with the rule using the North American Industry Classification System (NAICS):

Table 1. Summary of Businesses Required to comply to the Proposed Rule

| NAICS Code (4, 5 or 6 digit) | NAICS Business Description | Number of businesses in Washington State | Minor Cost Threshold |
|------------------------------|---|--|----------------------|
| 111219 | Other Vegetable (except Potato) and melon Farming | 4133 | 3503.04 |
| 111331 | Apple Orchards | 2325 | 2234.36 |
| 111332 | Grape Vineyards | 2155 | 421.79 |
| 111333 | Strawberry Farming | 288 | 447.51 |
| 111334 | Berry (except Strawberry) Farming | 1064 | 3443.84 |
| 111335 | Tree Nut Farming | 1433 | 817.20 |
| 111336 | Fruit and Tree Nut Combination Farming | 252 | 545.96 |
| 111339 | Other Non-citrus Fruit Farming | 2121 | 755.89 |

3. Identify and analyze the probable costs to comply with the adopted rule: WAC 296-307-16127 TWH management plan.

Description: These sections currently require all operators to implement a written TWH management plan including standard safety pro-

ocols and residency rules for maintaining safe and orderly housing. All plans are to be written in English and in the language most commonly spoken by the occupants. The proposed rule amends WAC 246-358-050 and 296-307-16127 to require the operator, when updating a TWH plan, to submit the updated plan to DOH within 10 calendar days after the updated plan becomes effective and to make the updated plan available to occupants.

In addition, the proposed rule provides housekeeping changes which are determined exempt from the cost/benefit analysis under RCW 34.05.328 (5)(b)(iv) as they do not change the effect of the rule. For example, amending the rule language to culturally appropriate verbiage by replacing the phrase "native language" with "language commonly understood."

Cost(s): The anticipated costs to the operator to submit a revised plan to DOH are negligible. The agencies anticipate that most operators will email a copy of the plan directly to DOH. Alternatively, operators could mail or fax the report to DOH.

The anticipated costs to the operator to translate the updated sections of the plan to comply with amendments in subsection (2)(b) is variable based on:

- The degree of the changes made in the revised plan;
- If the operator is using the fillable form template¹ provided by DOH;
- How many times an operator will need to update the plan in a given year;
- If an operator is already in compliance with the amendment because subsection (2)(b) currently requires translation.

For these reasons, the low end of the researched cost range could reasonably be \$0.

The researched high end of the cost estimate to translate the document into a language from English is based on a maximum of five pages (2250 words)¹ allowing for additional site-specific management plans that are beyond the basic required elements in the two-page fillable form² that DOH has available in both English and Spanish. The cost range per word is \$0.09 to \$0.40 depending on the number of words, complexity of the changes, the language pair, and the type of files being translated.³ The most commonly spoken languages in Washington state include Spanish and Spanish Creole, Mandarin, Vietnamese, and Russian.⁴ **Cost Range: \$0 - \$900.00.**

The anticipated costs to the operator to provide a revised management plan to occupants is negligible, which could include posting the updated plan.

New WAC 296-307-16146 Ventilation.

Description: For buildings with a mechanical ventilation system, the proposal requires the operator to maintain the existing system to the manufacturer's specifications and perform regular maintenance and filter changes. When fitting a mechanical ventilation system with a filter, the proposed rule requires operators to use a minimum efficiency reporting value (MERV) 13 rated filter or the highest rated filter that the mechanical ventilation system can support. The operator is required to maintain a written maintenance log that includes filter cleaning and replacement. If a building is equipped with a mechanical ventilation system, the operator must instruct occupants to turn it on while the building is occupied and temporarily shut it down when external conditions pose health and safety risks to occupants. If

the building does not have a mechanical ventilation system, the operator must instruct the occupants to close all external openings if external conditions could pose a health or safety risk to the occupants.

Cost(s): The anticipated cost to operators is negligible. DOH and L&I expect that operators will follow the manufacturer's operating manual as a regular practice. It is assumed that most operators are already maintaining mechanical ventilation systems in conformance with the proposed rule and that any changes to comply will be negligible.

The filter compartment in a mechanical ventilation unit can vary in perimeter and thickness. Research of the costs of mechanical ventilation system filters focused on the largest filter available (30 x 36) to calculate the costs to comply with the proposed requirement. The most common filters are one to four inches thick. To upgrade from a one-inch MERV 8 filter (lowest rated filter) at \$41.54 to a one-inch MERV 13 filter at \$49.43 would cost the operator \$7.89 per filter. To upgrade from a four-inch MERV 8 filter at \$74.90 to a four-inch MERV 13 at \$107.26 would cost the operator \$32.36 per filter. The frequency at which the filter would need to be replaced depends on the filter thickness and outdoor air conditions and is therefore variable.⁵ Additionally, it is assumed that some operators are already in compliance with the proposed rule and therefore would not incur any additional costs to upgrade to a higher rated filter. **Incremental Cost Range per filter: \$0 - \$32.36.**

It is assumed that the operator would spend two to four hours a year doing routine maintenance and logging the task in a written maintenance record. The average hourly mean wage for an operator in Washington state is estimated at \$26.18.⁶ **Cost Range: \$52.36 - \$104.72.**

WAC 296-307-16147 Tents.

Description: These sections currently set requirements for the use of tents as TWH for cherry harvest. The proposal requires operators to instruct occupants to close all windows and other outside openings when external conditions could pose a health or safety risk to the occupants.

In addition, the proposed rule provides housekeeping changes which are determined exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(iv) as they do not change the effect of the rule.

Cost(s): The anticipated costs are negligible due to the time it would take for operators or occupants to close windows and other outside openings under external hazardous conditions.

WAC 296-307-16190 Disease prevention and control.

Description: This section requires operators to cooperate with local health jurisdictions, DOH and L&I in preventing the spread of communicable diseases. The proposal requires the operators to:

- Cooperate with the local health jurisdiction and DOH in the investigation and control of cases, suspected cases, outbreaks and suspected outbreaks of communicable diseases or notifiable conditions.
- Immediately report to the local health jurisdictions occupants known to have or suspected to have communicable diseases made notifiable by emergency rule or emergency declaration, as well as other specific symptoms of serious illness.
- Implement infection control measures as required by the local health jurisdiction for the care of occupants who have been exposed to other occupants with a suspected or positive case of a communicable disease.

- Conspicuously post education in a language commonly understood by all occupants on the communicable disease related health and safety policies of the TWH.
- Develop a communicable disease prevention and response plan that specifies a process to screen occupants for symptoms of communicable diseases and include isolation and quarantine procedures.
- Provide occupants with access to a thermometer to determine if they have a fever.
- If an occupant is isolated or quarantined, provide access to a phone, information on paid leave and worker compensation, access to medical professionals who offer health care services, and provide food and water at no cost to the occupant.
- Provide transportation for an occupant needing medical attention for a communicable disease or suspected communicable disease at no cost to the occupant.
- Document and provide training to persons responsible for executing the communicable disease prevention and response plan at least annually or when the plan is updated.

Cost(s): Many of the proposed amendments were part of the series of nine emergency rules adopted during the COVID-19 pandemic. At that time, DOH and local health jurisdictions supplied thermometers to operators at no cost. The thermometers that were supplied to operators during the pandemic were FDA-approved "no contact" infrared forehead thermometers that were purchased for \$17.50 each. Similar thermometers cost \$21.99.⁷ The only new expense would be to purchase thermometers if the operator needs to replace the existing thermometers or if a new operator becomes licensed. **Cost Range: \$0 - \$21.99.**

The number of occupants needing urgent care due to a communicable disease could vary widely. The researched cost estimate captures the cost range of a single worker, single occurrence. The assumptions on travel and time for a single worker, single occurrence are presented in Table 2.

Table 2. Assumptions for travel distance and time for a single occupant, single occurrence

| Range | Seeking Care Travel* | | | | Urgent Care Appointment** | Operator Travel*** | | | |
|----------|----------------------|------------|----------------|------------|---------------------------|--------------------|------------|----------------|------------|
| | Distance (miles) | | Time (minutes) | | Time (minutes) | Distance (miles) | | Time (minutes) | |
| | One-way | Round-trip | One-way | Round-trip | Average | One-way | Round-trip | One-way | Round-trip |
| Low-end | 9 | 18 | 18 | 36 | 55 | 0 | 0 | 0 | 0 |
| High-end | 22 | 44 | 30 | 60 | 70 | 30 | 60 | 60 | 180 |

* Estimated from a study from the office of financial management (OFM) (Washington state).⁸

** Average urgent care appointment ranges from 55 to 70 minutes.⁹

*** Estimated through conversations with DOH inspectors.

Table 3 uses assumptions from Table 2 to calculate the total cost range for a single occupant, single occurrence.

Table 3. Calculations for total cost range for a single occupant, single occurrence

| Range | Variable | Occupant Totals | Occupant Cost*,*** | Operator Totals | Operator Cost*** |
|---------|-----------|-----------------------------|------------------------------------|-----------------|------------------|
| Low-end | Miles**** | 18 | 18 x \$0.655 = \$11.79 | 0 | 0 |
| | Time | 36 mins + 55 mins = 91 mins | 2 hours x \$16.85 = \$33.70 | 0 | 0 |

| Range | Variable | Occupant Totals | Occupant Cost**,** | Operator Totals | Operator Cost**,** |
|------------|-----------|---------------------------------|---------------------------------------|----------------------------------|--|
| High-end** | Miles**** | 44 | Added to operator | 60 + 44 = 104 | 104 x \$0.655 = \$68.12 |
| | Time | 60 mins + 70 mins = 130 mins | 3 hours x \$16.85 = \$50.55 | 180 mins + 70 mins = 250 mins | 5 hours x \$26.18 = \$130.90 |

* Rounded-up to the nearest hour.

** High-end operator cost totals assume that the operator goes with the occupant with the appointment (additional time) and takes the worker with them; therefore, miles accrue only once under the operator cost.

*** Average mean wage of a worker \$16.85¹⁰ and average mean wage of a first-line supervisor (TWH operator) of \$26.18.¹¹

**** DOH mileage cost based on the estimated rate of \$0.655 per mile.¹²

As the estimates produced are per occupant, per occurrence, the total cost in a given year to an operator and occupant are indeterminate. Additionally, it is recognized that the high-end of the cost range is likely an underestimate as an average length of travel was used, but the time estimate for an infectious disease could be considerably longer. **Cost Range: \$45.49 - \$249.57.**

Local health jurisdictions, DOH, L&I, and CDC have multilingual flyers that are readily available to the public at no cost for operators to use to educate occupants on communicable disease related health and safety policies. It is estimated that it could take up to two hours (time to locate and request copies) for operators to comply with this proposed amendment. The average hourly mean wage for an operator in Washington State is estimated at \$26.18.^{2 [12]} **Cost Range: \$0.00 - \$52.36.**

DOH is creating a template for operators to use to assist in the development of a communicable disease prevention and response plan. DOH estimates that it will take approximately two hours for operators to develop the plan using the DOH-created template. The average mean wage of a first-line supervisor (TWH operator) is \$26.18.¹³ **Cost Range: \$0.00 - \$52.36.**

The number of occupants that may need to be isolated or quarantined in a particular year due to a communicable disease could vary widely. The estimated cost captures the cost range of a single occupant, single occurrence.

Operators can employ an H-2A classified worker or a worker that is not classified as an H-2A worker. Section 218 of the Immigration and Nationality Act authorizes the lawful admission into the United States of temporary, nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature.¹⁴ H-2A worker housing standards state that, for temporary nonimmigrant workers, the operators will provide three meals a day or have free convenient kitchen space and provide lodging to the workers that they employ. Operators may choose to house workers in transient accommodations such as motels or hotels or have on-site temporary labor housing that conforms to the requirement in chapter 246-358 WAC and chapter 296-307 WAC.^{15,16} Non-H-2A operators may choose on-site operator owned housing or apartment rentals, but are not required to provide housing for domestic agriculture workers. If the operators choose to provide housing, they must comply with the requirements of chapters 246-358 and 296-307 WAC.

The assumed low-end cost range to isolate or quarantine an occupant of the TWH would be in housing that the operator owns, that the isolated occupant owns a cell phone or that there is a land line available for use, and the operator would only need to supply the occupant with food and water for the day. It is assumed that the high-end cost range to isolate or quarantine an occupant would include se-

curing an additional hotel/motel room, supplying the isolated occupant with a cell phone (daily rate), and supplying the occupant with food and water. The following assumptions apply:

- The cost of a hotel/motel room ranges from \$98.00 to \$232.00 per day.¹⁷
- The average monthly cost of a cell phone in the United States is \$114.00 (equivalent to around \$4.00 daily).¹⁸
- The daily cost of food (three meals [meals] per day) and water is \$59.00.¹⁹

As the length of time that an occupant or occupants may need to be isolated or quarantined in a given year is variable, the total annual cost is indeterminate. **Single Occupant, Single Occurrence, Daily Cost Range: \$59.00 - \$295.00.**

It is estimated that the time to train an individual to execute the communicable disease prevention and response plan will take 30 to 60 minutes of both the operator and the person being trained to execute the plan. The average mean wage of a first-line supervisor (operator/trainer) is \$26.18.²⁰ The average hourly mean wage of an entry level agricultural worker is \$16.85.²¹ **Cost Range: \$21.52 - \$43.03.**

4. Determine whether or not the proposed rule will impose more-than-minor costs on businesses in an industry: While most of the costs of the proposed rule can be estimated, there are some that are indeterminate and variable, as the given multiplier is unknown. The multiplier in Section 3 above is the number of occupants that could need urgent care due to a communicable disease in a given year or the number of occupants that could need to be isolated or quarantined in a particular year due to a communicable disease. Because these are variable and therefore indeterminate costs, the agencies are unable to determine if the costs of the proposed rule are greater than the minor cost threshold ranging from \$421.79 for Grape Vineyards and \$3,503.04 for Other Vegetable (except Potato) and Melon Farming.

5. If the proposed rule is likely to impose a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses: The agencies do not anticipate that there is any single factor that makes a business more or less likely to be impacted by the proposed rule since quarantine and care costs of occupants are variable and indeterminate over any given year and that the benefits are public health and safety for all. As such, L&I assumes there is a disproportionate impact on small businesses. L&I reviewed the list of methods for reducing the impact on small businesses under RCW 19.85.030 and found them inapplicable.

- Reducing, modifying, or eliminating substantive regulatory requirements. Reducing, modifying, or eliminating substantive regulatory requirements is not legal or feasible in meeting the objectives and requirements of the Washington Industrial Safety and Health Act (WISHA) and the DOH TWH statute.
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements. Simplifying, reducing, or eliminating recordkeeping and reporting requirements is not legal or feasible in meeting the objectives and requirements of WISHA and the DOH TWH statute.
- Reducing the frequency of inspections. Reducing the frequency of inspections is not legal or feasible in meeting the objectives and requirements of WISHA and the DOH TWH statute.

- Delaying compliance timetables. Delaying compliance is not legal or feasible in meeting the objectives and requirements of WISHA and the DOH TWH statute.
- Reducing or modifying fine schedules for noncompliance. The statutes require DOH and L&I to jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to enforcement, and for the agreement to include, to the extent feasible, inspection and enforcement actions by a single agency, and shall include measures to avoid multiple citations for the same violation. DOH and L&I have a memorandum of understanding addressing enforcement as required. For L&I, reducing fine schedules for noncompliance for small businesses. RCW 49.17.180 addresses the civil penalties for WISHA citations and requires L&I give consideration in the penalty assessment to factors including the size of the employer's business. WAC 296-900-14015 (Table 11) sets forth the specific process for penalty adjustments including employer size, with reductions of 20 percent up to 70 percent.

6. Describe how small businesses were involved in the development of the proposed rule: DOH and L&I communicated on the rule development process via electronic email distribution lists. L&I developed and shared draft proposed rules and circulated them for stakeholder feedback. Small business employers and organizations representing small businesses were involved throughout these processes and DOH and L&I considered their feedback throughout the process.

7. Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule: L&I does not anticipate that the compliance with proposed rules will lead to a significant number of job creations or cuts. Employers will be able to meet the proposed requirements using existing staff without new hires. Similarly, it is unlikely that employers would need to dismiss employees as a result of the proposed rule amendments.

- 1 Washington State Department of Health. (accessed April 17, 2023). Temporary Worker Housing (Migrant Farmworker) – Camp Management Plan. <https://doh.wa.gov/licenses-permits-and-certificates/facilities-z/temporary-worker-and-migrant-farmworker-housing/camp-plan>.
- 2 Washington State Department of Health. (accessed April 17, 2023). Temporary Worker Housing (Migrant Farmworker) – Camp Management Plan. <https://doh.wa.gov/licenses-permits-and-certificates/facilities-z/temporary-worker-and-migrant-farmworker-housing/camp-plan>.
- 3 The Translation Company. (accessed April 17, 2023). Translation Rated – The Ultimate Guide. <https://thetranslationcompany.com/resources/5-facts-buying-translation/translation-pricing.htm>.
- 4 Language Network (accessed April 17, 2023). The History of Language in Washington State. <https://www.languagenetworkusa.com/blog/the-history-of-language-in-washington-state>.
- 5 Filterbuy, Inc. (accessed March 30, 2023). Shop by filter size. <https://filterbuy.com/>.
- 6 U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). Occupational Employment and Wage Statistics. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- 7 S&S Worldwide. (accessed April 5, 2023). Infrared Contactless Forehead Thermometer. Buy Infrared Contactless Forehead Thermometer at S&S Worldwide ([ssww.com](https://www.ssw.com)).
- 8 Yen, W. (2013). How long and how far do adults travel and will adults travel for primary care. Washington State Office of Financial Management. How Long and How Far Do Adults Travel and will Adults Travel for Primary Care - Research Brief 70 (wa.gov). Accessed on April 15, 2023. [Solvhealth.com](https://www.solvhealth.com).
- 9
- 10 Washington State Department of Labor and Industries. (accessed April 7, 2023). Agriculture Policies – Wages. <https://www.lni.wa.gov/workers-rights/agriculture-policies/wages>. (Average of the state minimum wage of \$15.74 per hour and the adverse effect wage rate for Jan 2023 of \$17.97).
- 11 U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). Occupational Employment and Wage Statistics. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- 12 Washington State Office of Financial Management. (accessed April 6, 2023). Per diem rate tables. Per diem rate tables | Office of Financial Management (wa.gov).
- 13 U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). Occupational Employment and Wage Statistics. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- 14 U.S. Department of Labor. (accessed April 14, 2023). H-2A: Temporary Agricultural Employment of Foreign Workers. <https://www.dol.gov/agencies/whd/agriculture/h2a>.
- 15 U.S. Department of Labor. (accessed April 9, 2023). Fact Sheet #26D: Meal Obligations for H-2A Employers. Fact Sheet #26D: Meal Obligations for H-2A Employers | U.S. Department of Labor ([dol.gov](https://www.dol.gov)).
- 16 U.S. Department of Labor. (accessed April 7, 2023). H-2A Housing Standards for Rental and Public Accommodations. Fact Sheet #26G: H-2A Housing Standards for Rental and Public Accommodations | U.S. Department of Labor ([dol.gov](https://www.dol.gov))
- 17 Washington State Office of Financial Management. (accessed April 6, 2023). Per diem rate tables. Per diem rate tables | Office of Financial Management (wa.gov).
- 18 Money Saving Pro. (accessed April 7, 2023). What is the average cell phone bill per month in 2023?. What is the Average Cell Phone Bill per Month in 2023? - MoneySavingPro.

- ¹⁹ U.S. Department of Labor. (accessed April 9, 2023). Allowable Meal Charges and Reimbursements for Daily Subsistence. Meal Charges and Travel Subsistence | U.S. Department of Labor (dol.gov).
- ²⁰ U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). Occupational Employment and Wage Statistics. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- ²¹ Washington State Department of Labor and Industries. (accessed April 7, 2023). Agriculture Policies – Wages. <https://www.lni.wa.gov/workers-rights/agriculture-policies/wages>. (Average of the state minimum wage of \$15.74 per hour and the adverse effect wage rate for Jan 2023 of \$17.97).

A copy of the statement may be obtained by contacting Cynthia Ireland, Administrative Regulations Analyst, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-791-5048, fax 360-902-5619, email Cynthia.Ireland@lni.wa.gov.

May 3, 2023
Joel Sacks
Director

OTS-4438.3

AMENDATORY SECTION (Amending WSR 20-21-091, filed 10/20/20, effective 11/20/20)

WAC 296-307-16103 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) **Agricultural employee.** Any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

(2) **Agricultural employer.** Any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes, but is not limited to, the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(3) **Bathing facility.** An enclosed area provided by the operator for workers to bathe or shower, and may be located within a family shelter or a common facility.

(4) **Building.** Any structure used or intended by the operator to be used by workers for cooking, eating, sleeping, sanitation, or other facilities.

(5) **Cherry harvest camp.** A place where housing and related facilities are provided to agricultural employees by agricultural employers or TWH operators for their use while employed for the harvest of cherries in the state of Washington. Cherry harvest camps are the only TWH site allowing tents.

(6) **Common.** A shared facility provided by the operator for all workers of the TWH.

(7) **Common areas.** Housing areas shared or used by one or more families or unrelated individuals.

(8) **Communicable disease.** An illness caused by an infectious agent that can be transmitted from a person, animal, or object to a person by direct or indirect means including, but not limited to, transmission via an intermediate host or vector, food, water, or air.

(9) **Community-based outreach worker.** A legal aid representative, a union representative, or a representative from other community-based advocacy organizations.

(10) **Community health worker.** A frontline public health worker who is a trusted member of or has a close understanding of the community served.

(11) **Current certificate (first aid).** A first-aid training certificate that has not expired.

(12) **Dining hall.** A cafeteria-type eating place with food furnished by and prepared under the direction of the operator for consumption, with or without charge, by workers.

(13) **Drinking fountain.** A fixture equal to a nationally recognized standard or a designed-to-drain faucet, which provides potable drinking water under pressure. A "drinking fountain" does not mean a bubble-type water dispenser.

(14) **Dwelling unit.** A shelter, building, or portion of a building, which may include cooking and eating facilities, that are:

(a) Provided and designated by the operator as either a sleeping area, living area, or both, for occupants; and

(b) Physically separated from other sleeping and common areas. "Physically separated" means a physical wall separating rooms.

(15) **Family shelter.** A dwelling unit with sleeping facilities for up to ((fifteen)) 15 workers that may include toilet or cooking facilities. If services such as bathing, food-handling, or toilet facilities are provided in the family shelter, they are for the sole use of the occupants of the family shelter.

(16) **First-aid trained.** The person holds a current certificate of first-aid training.

(17) **Floor space.** The area within a dwelling unit with a minimum ceiling height of seven feet.

(18) **Food-handling facility.** An enclosed area provided by the operator for workers to prepare their own food, and may be within a family shelter or common facility.

(19) **Group A public water system.** A public water system as defined and referenced under WAC 246-290-020.

(20) **Group B public water system.** A public water system that is not a Group A public water system, and is defined and referenced under WAC 246-291-050.

(21) **Habitable room.** A room or space in a structure used for living, sleeping, eating, or cooking. Bathing facilities, toilet facilities, closets, halls, storage or utility space, and similar areas are not considered habitable rooms.

(22) **Health officer.** The individual appointed as such for a local health department under chapter 70.05 RCW or appointed as the director of public health of a combined city-county health department under chapter 70.08 RCW.

(23) **Livestock.** Horses, cows, pigs, sheep, goats, poultry, etc.

(24) **Livestock operation.** Any place, establishment, or facility consisting of pens or other enclosures in which livestock is kept for purposes including, but not limited to, feeding, milking, slaughter, watering, weighing, sorting, receiving, and shipping. Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance may be treated as outside the definition.

(25) **Mechanical ventilation system.** A mechanism that actively processes supplying air to or removing air from an indoor space by powered equipment such as motor-driven fans and blowers but not by de-

VICES SUCH AS WIND-DRIVEN TURBINE VENTILATORS AND MECHANICALLY OPERATED WINDOWS.

(26) **MSPA.** The Migrant and Seasonal Agricultural Worker Protection Act (96 Stat. 2583; 29 U.S.C. Sec. 1801 et seq.).

(27) **Occupant.** A temporary employee or a person who resides with a temporary worker at the TWH or camp.

(28) **Operating license or license.** A document issued annually by the department of health.

(29) **Operator.** A person holding legal title to the land on which the TWH or camp is located. However, if the legal title and the right to possession are in different persons, "operator" means a person having the lawful control or supervision over the TWH.

(30) **Outbreak.** The occurrence of a condition in an area over a given period of time in excess of the expected number of occurrences including, but not limited to, foodborne disease, waterborne disease, and health care-associated infection.

(31) **Recreational park trailers.** A trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use, that meets the following criteria:

(a) Built on a single chassis, mounted on wheels;

(b) Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode;

(c) Certified by the manufacturer as complying with ANSI A119.5; and

(d) Chapter 296-150P WAC.

(32) **Recreational vehicle.** A vehicular-type unit that is compliant with chapter 296-150R WAC and primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive of power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers, but does not include pickup trucks with camper shells, canopies, or other similar coverings.

(33) **Refuse.** Solid wastes, rubbish, or garbage.

(34) **Temporary worker or worker.** An agricultural employee employed intermittently and not residing year-round at the same TWH site.

(35) **((TWH₇)) Temporary worker housing (TWH) or housing.** A place, area, or piece of land where sleeping places or housing sites are provided by an agricultural employer for agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees for temporary, seasonal occupancy. TWH includes cherry harvest camps.

(36) **Tent.** An enclosure or shelter constructed of fabric or pliable material composed of rigid framework to support tensioned membrane that provides ((the)) a weather barrier.

(37) **WISHA.** The Washington Industrial Safety and Health Act, chapter 49.17 RCW, administered by the Washington state department of labor and industries.

(38) **Worker-supplied housing.** Housing owned by the worker and made available to the same worker on the operator's TWH site. Worker-supplied housing includes recreational park trailers, recreational vehicles, tents, or other structures that meet the requirements of this chapter.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 20-21-091, § 296-307-16103, filed 10/20/20, effective

11/20/20; WSR 15-13-092, § 296-307-16103, filed 6/15/15, effective 7/16/15. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050 and 1999 c 374. WSR 00-06-081, § 296-307-16103, filed 3/1/00, effective 3/1/00.]

AMENDATORY SECTION (Amending WSR 15-13-092, filed 6/15/15, effective 1/1/16)

WAC 296-307-16127 TWH management plan. (1) ~~((The))~~ An operator ~~((licensed under this chapter must))~~ shall develop and implement a written TWH management plan that must include:

(a) A safety plan that includes ~~((the following))~~:

(i) Emergency information, including site name and address, emergency contact phone numbers, location of local emergency services, and the department of health bilingual TWH complaint line;

(ii) A plan for contacting a first-aid trained person or emergency services within a reasonable amount of time; and

(iii) Those designated actions operators and occupants ~~((must))~~ shall take to ensure occupant safety from fire and other emergencies, including the following:

(A) Emergency escape procedures and emergency escape route assignments;

(B) Procedures to account for all occupants after emergency evacuation has been completed;

(C) The preferred means of reporting fires and other emergencies; and

(D) Names or regular job titles of those who can be contacted for further information or explanation of duties under the plan.

(iv) ~~((Training.))~~ A requirement to designate and train a sufficient number of ~~((occupants))~~ people to assist in the safe and orderly emergency evacuation of occupants; and

(v) ~~((Maintenance.))~~ A requirement to regularly and properly maintain, according to established procedures, equipment and systems installed on heat producing equipment to prevent accidental ignition of combustible materials.

(b) ~~((Camp))~~ Residency rules that describe to the occupants expectations for maintaining a safe and orderly TWH.

(2) The operator shall make available:

(a) A written copy of the TWH management plan, in English and the ~~((native))~~ language ~~((of))~~ commonly understood by the occupants, to the department of health or the department of labor and industries upon request; and

(b) A written copy of the residency rules ~~((for review))~~ to occupants, ~~((in the occupant's native language,))~~ in English and the language commonly understood by the occupants by:

(i) Posting it in a central location ~~((accessible))~~ visible to the occupants; ~~((of))~~ and

(ii) Providing individual copies to each occupant if requested.

(3) When changes are made to the TWH management plan, the operator shall submit the revised TWH management plan to the department of health within 10 calendar days of the effective date and comply with the requirements in subsection (2)(b) of this section.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 15-13-092, § 296-307-16127, filed 6/15/15, effective 1/1/16.]

NEW SECTION

WAC 296-307-16146 Ventilation. (1) If the TWH facility or building has a mechanical ventilation system, the operator shall maintain it according to the manufacturer's specifications and operate the system to provide fresh and filtered air. The operator shall have building maintenance staff or mechanical ventilation system contractors set the system to increase ventilation or the percentage of outside air that circulates in the facility or building and verify the following:

- (a) The mechanical ventilation system is fully functional;
 - (b) The mechanical ventilation system filters have a minimum efficiency reporting value (MERV) rating of at least 13. If the mechanical ventilation system does not support MERV 13 filters, use the highest MERV rating filter supported by the mechanical ventilation system;
 - (c) The mechanical ventilation system's outdoor air intake is maximized. Reductions in outside air intake may be made when external conditions pose health and safety risks to the occupants;
 - (d) Maintenance checks occur at the beginning of each growing season when preparing buildings to be reopened. Additional maintenance checks must occur based on manufacturer recommendations, usually quarterly or annually;
 - (e) Ensure written maintenance records are maintained. The written record must include documentation of filter selection, including a selection reason if less than MERV 13 filtration is used, and filter conditions. Written records must be available for review upon request by the state agency representatives;
 - (f) Filters in any mechanical ventilation system used in a TWH facility or building must be in good repair and replaced in accordance with manufacturer's instructions.
- (2) The operator shall instruct occupants in housing with mechanical ventilation systems to:
- (a) Turn on mechanical ventilation systems whenever the TWH facility or building is occupied; and
 - (b) Temporarily shut down the mechanical ventilation system when external conditions pose health and safety risks to occupants.
- (3) In buildings without mechanical ventilation systems, the operator shall instruct occupants to close windows and other outside openings when external conditions pose health and safety risks to occupants.

[]

AMENDATORY SECTION (Amending WSR 20-21-091, filed 10/20/20, effective 11/20/20)

WAC 296-307-16147 Tents. (1) Each tent must be constructed to sleep no more than (~~fifteen~~) 15 workers.

- (2) Tents must provide protection from the elements, insects, and animals.
- (3) Structural stability and floors.
- (a) Tents and their supporting framework must be adequately braced and anchored to prevent weather related collapse. The operator shall provide documentation of the structural stability (~~must be furnished~~) to the department of health, if requested.
- (b) Floors must be smooth, sloped from a raised center towards the lower outer edges. Floors must be without breaks or holes to provide a hard, stable walking surface. Nonridged flooring supported by grass, dirt, soil, gravel, or other uneven surfaces is not acceptable. Floors that are constructed of wood or concrete must comply with the building code, chapter 19.27 RCW and this chapter.
- (c) Floor systems must be designed to prevent the entrance of snakes, rodents, and other nuisances.
- (4) Flame-retardant treatments.
- (a) The sidewalls, drops, and tops of tents must be composed of flame-resistant material or treated with a flame-retardant in an approved manner.
- (b) Floor coverings, which are integral to the tent, and the bunting, must be composed of flame-resistant material or treated with a flame retardant in an approved manner and in accordance with Uniform Building Code, Standard 31.1.
- (c) All tents must have a permanently affixed label bearing the following information:
- (i) Identification of tent size and fabric or material type;
- (ii) For flame-resistant materials, the necessary information to determine compliance with this section and National Fire Protection Association Standard 701, Standard Methods of Fire Tests for Flame-resistant Textiles and Films;
- (iii) For flame-retardant materials, the date that the tent was last treated with an approved flame-retardant;
- (iv) The trade name and type of flame-retardant used in the flame-retardant treatment; and
- (v) The name of the person and firm that applied the flame-retardant.
- (5) Means of egress.
- (a) Tents must have a primary entrance door. At least one door must lead to the outside of the tent. The door must not be obstructed in any manner and must remain free of any material or matter where its presence would obstruct or render the exit hazardous.
- (b) The area designated for refuge must be accessible and remain clear of storage materials or hazards.
- (c) If food-handling facilities are provided in tents, or the tent occupancy capacity is for (~~ten~~) 10 or more workers, a window allowing access must be located opposite the door and must have a means to open the window or provide an easily opened space, for example, a zipper which opens downward to the floor, must be provided.
- (6) Floor area. The operator must:
- (a) If food-handling facilities are provided in the tent, (~~the operator must~~) provide an additional (~~twenty~~) 20 square feet of floor space;
- (b) (~~The operator must~~) Provide at least (~~fifty~~) 50 square feet of floor space for each worker in rooms used for sleeping purposes.
- (7) Ceiling height.

(a) A ceiling height of at least seven feet is required in ~~((fif-ty))~~ 50 percent of the total floor area.

(b) No portion of the tent measuring less than six feet from the flooring to the ceiling will be included in any computation of the floor area.

(8) Windows and ventilation.

(a) The operator shall provide a window area equal to one-tenth of the total floor area in each habitable room which opens at least halfway or more directly to the outside for cross-ventilation and has a minimum of ~~((sixteen-mesh))~~ 16-mesh screens on all exterior openings.

(b) The windows must have weather-resistant flaps, which will cover the window area and a means of fastening the flaps to provide protection from the elements and allow privacy for the ~~((workers))~~ oc- cupants.

(c) The operator shall instruct occupants to close windows and other outside openings when external conditions pose a health and safety risk to occupants.

(9) Electrical and lighting. The operator shall ensure that:

(a) ~~((The operator must ensure that))~~ Electricity is supplied to all tents used as habitable room.

(b) ~~((The operator must ensure that))~~ All electrical wiring, fixtures and electrical equipment must comply with the electrical standards of the department of labor and industries regulations, chapter 19.28 RCW, and local ordinances, and be maintained in a safe condition.

(c) ~~((The operator must ensure that))~~ Each tent used as a habitable room has at least one ceiling-type light fixture and at least one separate floor-type or wall-type convenience outlet.

(d) ~~((the operator must en- sure that))~~ appropriate wiring and electrical equipment is provided.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 20-21-091, § 296-307-16147, filed 10/20/20, effective 11/20/20; WSR 15-13-092, § 296-307-16147, filed 6/15/15, effective 1/1/16.]

AMENDATORY SECTION (Amending WSR 20-21-091, filed 10/20/20, effective 11/20/20)

WAC 296-307-16190 Disease prevention and control. ~~((1) The operator must report immediately to the local health officer the name and address of any individual in the camp known to have or suspected of having a communicable disease;~~

~~(2) The operator must report immediately to the local health officer:~~

~~(a) Suspected food poisoning;~~

~~(b) An unusual prevalence of fever, diarrhea, sore throat, vomiting, or jaundice;~~

~~(c) Productive cough; or~~

~~(d) When weight loss is a prominent symptom among workers.~~

~~(3)) The operator must:~~

(1) Cooperate with the local health jurisdiction and department of health in the investigation and control of cases, suspected cases,

outbreaks, and suspected outbreaks of communicable diseases or notifiable conditions;

(2) Report immediately to the local health jurisdiction the name and address of any occupant or occupants known to have or suspected of having:

(a) Any communicable diseases made notifiable by emergency rule or emergency declaration;

(b) An outbreak of foodborne or waterborne illness; or

(c) Any occurrence of the following symptoms in two or more occupants:

(i) Fever, diarrhea, sore throat, vomiting, or jaundice;

(ii) Coughing up blood or a cough lasting three weeks or longer;

or

(iii) Unexpected weight loss;

(3) Implement infection control measures as required by the local health jurisdiction for care of occupants who have been exposed to other occupants with a suspected or positive case of a communicable disease;

(4) Conspicuously post information regarding the operator's health and safety policies, how to identify symptoms of communicable diseases, to whom to report to if not feeling well, and where and how to secure medical treatment. All information shall be posted in a language commonly understood by the occupants;

(5) Allow entry of community health workers and community-based outreach workers to provide additional information to occupants provided that the community health worker or community outreach worker:

(a) Contacts the operator before visiting the TWH site;

(b) Checks in with designated TWH staff when arriving on the TWH site; and

(c) Wears appropriate personal protective equipment and completes a health screening as required by the local health jurisdiction;

(6) Prohibit any individual with a communicable disease from preparing, cooking, serving, or handling food, foodstuffs, or materials in dining halls;

(7) Develop and follow a communicable disease prevention and response plan that includes:

(a) A process to screen occupants for symptoms of communicable diseases when needed, using symptom lists specified by the local health jurisdiction or department of health;

(b) Providing oral thermometers or "no touch" or "no contact" thermometers for occupants to use as specified by the local health jurisdiction or department of health. Any worker with a temperature of 100.4°F or higher is considered to have a fever;

(c) Contacting the local health jurisdiction immediately as required under subsection (2) of this section and facilitating transportation for any medical evaluation or treatment at no cost to the occupant. If the transportation is not provided by an aid service or ambulance service, the operator shall provide personal protective equipment to individuals providing transportation;

(d) When required by the local health jurisdiction or department of health to quarantine or isolate an occupant to prevent the spread of a communicable disease, the plan must include attestation of the following:

(i) Provide ready access for occupants to telephone service to summon emergency care;

(ii) Provide occupants with information about paid leave and workers compensation;

(iii) Permit access to medical professionals who offer health care services as required by the local health jurisdiction; and

(iv) Provide, at no cost to the occupant, food and water for occupants in isolation or quarantine; and

(8) Provide:

(a) Training for persons responsible to execute the communicable disease prevention and response plan when the plan is updated, or at least annually, if the plan is not updated every year. Information and training must be provided in a manner and language readily understood by the person responsible to execute the plan; and

(b) Documentation of training records must include the name of the person trained and the date that the training occurred. Documentation must be available for review upon request by the state agency representatives.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 20-21-091, § 296-307-16190, filed 10/20/20, effective 11/20/20; WSR 15-13-092, § 296-307-16190, filed 6/15/15, effective 7/16/15. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050 and 1999 c 374. WSR 00-06-081, § 296-307-16190, filed 3/1/00, effective 3/1/00.]

WSR 23-10-093

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed May 3, 2023, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-19-047.

Title of Rule and Other Identifying Information: Temporary worker housing (TWH), chapter 246-358 WAC. The department of health (DOH), in conjunction with the department of labor and industries (L&I), is proposing amendments to address the hazards of communicable diseases such as COVID-19 amongst TWH occupants.

Hearing Location(s): On June 20, 2023, prehearing overview at 2:00 p.m., and hearing at 3:00 p.m., virtual and telephonic hearing. Join electronically <https://lni-wa-gov.zoom.us/j/85754270385?pwd=T25qTldCS3UzVi9nU3J5ZG0vQTMzZz09>, Password (if prompted) TWhouse@2; on June 26, 2023, prehearing overview at 2:00 p.m., and hearing at 3:00 p.m., at WSU Mount Vernon NWREC, 16650 State Route 536, Mount Vernon, WA 98372; on June 27, 2023, prehearing overview at 2:00 p.m., and hearing at 3:00 p.m., at Pybus Public Market, 3 North Worthen Street, Wenatchee, WA 98801; and on June 28, 2023, prehearing overview at 1:00 p.m., and hearing at 2:00 p.m., at Red Lion Hotel Columbia Center, 1101 North Columbia Center Boulevard, Kennewick, WA 99336.

Date of Intended Adoption: July 17, 2023.

Submit Written Comments to: Nina Helpling, DOH, P.O. Box 47820, Olympia, WA 98504-7820, email tempworkerrule@doh.wa.gov, by July 7, 2023.

Assistance for Persons with Disabilities: Contact Nina Helpling, phone 360-236-3065, TTY 711, email nina.helpling@doh.wa.gov, by June 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 70.114A.065 directs DOH and L&I to adopt joint rules for the licensing, operation, and inspection of TWH.

In February 2020, Governor Inslee proclaimed a state of emergency in Washington state as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States. The virus was confirmed to spread person-to-person. Under the initial March 23, 2020, Proclamation 20-25, Stay Home-Stay Healthy, among other things, the governor enacted various forms of social and physical distancing requirements. This was followed by proclamation amendments adjusting the Stay Home-Stay Healthy order transitioning to a phased-in approach to reopening Washington state, referred to as "Safe Start Washington."

In April 2020, DOH and L&I received a petition for rule making requesting immediate rule amendments to further protect occupants in TWH and cherry harvest camps. In response to the petition and the Governor's Proclamation 20-25, Stay Home, Stay Health order, DOH, in conjunction with L&I, adopted emergency rules to protect occupants from COVID-19 hazards in licensed TWH. The last emergency rule expired January 14, 2023.

Throughout the duration of the emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COVID-19 and similar airborne infectious disease hazards. Each emergency rule provided specific requirements responding to the needs at the time the emergency rule was adopted.

DOH and L&I have assessed the emergency rule requirements, along with input from interested parties, and are proposing amendments for permanent adoption of the following key provisions to address prevention of future outbreaks and the spread of any airborne infectious disease. These key provisions include:

- o Requiring updates to the TWH management plan to be submitted to DOH and making the updated plan available to occupants. Requirements for providing the updated plan to occupants in a language or languages understood by the occupants is a current requirement;
- o Specific ventilation requirements for all TWH buildings and cherry harvest tents to maximize outdoor air intake and maintaining maintenance logs and other documentation;
- o Revisions to the disease prevention and control requirements include:
 - Requiring cooperation with the local health jurisdiction and DOH in the investigation and control of cases, suspected cases, outbreaks, and suspected outbreaks of communicable diseases or notifiable conditions;
 - Changes to reporting requirements;
 - Establishing a communicable disease and prevention response plan which includes identifying and isolating occupants with suspect and confirmed cases, and providing medical assistance; and
 - Specific training for those responsible for executing the communicable disease and prevention response plan.

Reasons Supporting Proposal: DOH and L&I are committed to take action to help prevent the spread of communicable diseases in TWH sites. Throughout the duration of the COVID-19 emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COVID-19 and similar airborne infectious disease hazards. This information provided guidance in determining what requirements are necessary to protect TWH occupants from airborne infectious disease hazards. Based on this information and gauging the effectiveness of the nine emergency rules, DOH and L&I identified permanent amendments to protect occupants in TWH.

Statutory Authority for Adoption: RCW 70.114A.065.

Statute Being Implemented: RCW 43.70.335.

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: None.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Nina Helpling, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3065; Implementation and Enforcement: Juan C. Gamez Briceno, 111 Israel Road S.E., Tumwater, WA 98501, 360-628-6620.

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 Nina Helpling, DOH, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3065, TTY 711, email nina.helpling@doh.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(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: WAC 246-358-010 Clarifies terms used throughout the chapter.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: WAC 246-358-010 Definitions, clarifies terms used throughout the chapter without changing its effect.

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

Small Business Economic Impact Statement

1. A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

DOH, in conjunction with L&I, are proposing amendments to chapter 246-358 WAC, Temporary worker housing, and chapter 296-307 WAC, Safety standards for agriculture, respectively, to address the hazards of communicable diseases amongst occupants residing in TWH.

State law, RCW 70.114A.065, requires DOH and L&I to adopt rules for the licensing, operation and inspection, and enforcement of TWH.

In February 2020, Governor Inslee proclaimed a state of emergency in Washington state in response to the novel coronavirus disease 2019 (COVID-19) pandemic. Under the initial March 23, 2020, Proclamation 20-25, Stay Home-Stay Healthy, the governor enacted various forms of social and physical distancing requirements. The proclamation identified the agriculture industry as an essential business requiring compliance with the social and physical distancing and sanitation requirements of DOH, L&I, and the Centers for Disease Control and Prevention (CDC) to lawfully operate. Proclamation 20-25 was later amended and ultimately a phased-in, county-by-county approach to reopening Washington was enacted in "Safe Start Washington," issued October 7, 2020. The governor also issued Proclamations 20-57 and 20-57.1, establishing workplace and transportation requirements for COVID-19 specific to the agriculture industry.

DOH and L&I responded to the COVID-19 pandemic by adopting a series of nine emergency rules beginning May 18, 2020, to protect occupants from the COVID-19 hazards in licensed TWH. The last emergency rule expired January 14, 2023.

Some of the key provisions in the emergency rules required operators to:

- Educate occupants in a language or languages understood by the occupants on COVID-19;
- Provide occupants cloth face coverings;
- Ensure physical distancing of occupants when at housing sites, which included all cooking, eating, bathing, washing, recreational, and sleeping facilities;
- Adhere to specific ventilation requirements maximizing outdoor intake and maintaining maintenance logs and other documentation;
- Ensure frequent cleaning and disinfecting of surfaces;
- Identify and isolate occupants with suspect and confirmed positive COVID-19 cases; and

- Submit to DOH a revised TWH management plan that demonstrates how the operator will comply with the emergency rule requirements.

Throughout the duration of the emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COVID-19 and similar airborne infectious disease hazards. Each emergency rule provided specific requirements responding to the needs at the time the emergency rule was adopted.

DOH and L&I have assessed the emergency rule requirements, along with input from interested parties, and propose permanent adoption of the following key provisions to address prevention of future outbreaks and the spread of any airborne infectious disease. These key provisions include:

- Requiring updates to the management plan to be submitted to DOH and making the updated plan available to occupants. Requirements for providing the updated plan to occupants in a language or languages understood by the occupants is not changing;
- Specific ventilation requirements for all TWH buildings and tents to maximize outdoor air intake and maintaining maintenance logs and other documentation;
- Revisions to the disease prevention and control requirements include:
 - Requiring cooperation with the local health jurisdiction and DOH in the investigation and control of cases, suspected cases, outbreaks, and suspected outbreaks of communicable diseases or notifiable conditions;
 - Changes to reporting requirements;
 - Establishing a communicable disease and prevention response plan which includes identifying and isolating occupants with suspect and confirmed cases, and providing medical assistance; and
 - Specific training for those responsible for executing the communicable disease and prevention response plan.

2. Identification and summary of which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS):

Table 1. Summary of Businesses Required to Comply with the Proposed Rule

| NAICS Code (4, 5, or 6 Digit) | NAICS Business Description | Number of Businesses in Washington State | Minor Cost Threshold |
|-------------------------------|---|--|----------------------|
| 111219 | Other Vegetable (except Potato) and melon Farming | 4133 | 3503.04 |
| 111331 | Apple Orchards | 2325 | 2234.36 |
| 111332 | Grape Vineyards | 2155 | 421.79 |
| 111333 | Strawberry Farming | 288 | 447.51 |
| 111334 | Berry (except Strawberry) Farming | 1064 | 3443.84 |
| 111335 | Tree Nut Farming | 1433 | 817.20 |
| 111336 | Fruit and Tree Nut Combination Farming | 252 | 545.96 |
| 111339 | Other Non-citrus Fruit Farming | 2121 | 755.89 |

3. Analysis of probable costs of businesses in the industry to comply with the proposed rule and includes the cost of equipment, supplies, labor, professional services, and administrative costs. The

analysis considers if compliance with the proposed rule will cause businesses in the industry to lose sales or revenue.

WAC 246-358-050 TWH management plan and 296-307-16127 TWH management plan.

Description: These sections currently require all operators to implement a written TWH management plan including standard safety protocols and residency rules for maintaining safe and orderly housing. All plans are to be written in English and in the language most commonly spoken by the occupants. The proposed rule amends WAC 246-358-050 and 296-307-16127 to require the operator to, when updating a TWH plan, submit the updated plan to DOH within 10 calendar days after the updated plan becomes effective and to make the updated plan available to occupants.

In addition, the proposed rule provides housekeeping changes which are determined exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(iv) as they do not change the effect of the rule. For example, amending the rule language to culturally appropriate verbiage by replacing the phrase "native language" with "language commonly understood."

Cost(s): The anticipated costs to the operator to submit a revised plan to DOH are negligible. The agencies anticipate that most operators will email a copy of the plan directly to DOH. Alternatively, operators could mail or fax the report to DOH.

The anticipated costs to the operator to translate the updated sections of the plan to comply with amendments in subsection (2)(b) is variable based on:

- The degree of the changes made in the revised plan;
- If the operator is using the fillable form template¹ provided by DOH;
- How many times an operator will need to update the plan in a given year;
- If an operator is already in compliance with the amendment because subsection (2)(b) currently requires translation.

For these reasons, the low end of the researched cost range could reasonably be \$0.

The researched high end of the cost estimate to translate the document into a language from English is based on a maximum of five pages (2250 words)¹ allowing for additional site-specific management plans that are beyond the basic required elements in the two-page fillable form² that DOH has available in both English and Spanish. The cost range per word is \$0.09 to \$0.40 per word depending on the number of words, complexity of the changes, the language pair, and the type of files being translated.³ The most commonly spoken languages in Washington state include Spanish and Spanish Creole, Mandarin, Vietnamese, and Russian.⁴ **Cost Range: \$0 - \$900.00.**

The anticipated costs to the operator to provide a revised management plan to occupants is negligible, which could include posting the updated plan.

New WAC 246-358-076 Ventilation and 296-307-16146 Ventilation.

Description: For buildings with a mechanical ventilation system, the proposal requires the operator to maintain the existing system to the manufacturer's specifications and perform regular maintenance and filter changes. When fitting a mechanical ventilation system with a filter, the proposed rule requires operators to use a minimum efficiency reporting value (MERV) 13 rated filter or the highest rated

filter that the mechanical ventilation system can support. The operator is required to maintain a written maintenance log that includes filter cleaning and replacement. If a building is equipped with a mechanical ventilation system, the operator must instruct occupants to turn it on while the building is occupied and temporarily shut it down when external conditions pose health and safety risks to occupants. If the building does not have a mechanical ventilation system, the operator must instruct the occupants to close all external openings if external conditions could pose a health or safety risk to the occupants.

Cost(s): The anticipated cost to operators is negligible. DOH and L&I expect that operators will follow the manufacturer's operating manual as a regular practice. It is assumed that most operators are already maintaining mechanical ventilation systems in conformance with the proposed rule and that any changes to comply will be negligible.

The filter compartment in a mechanical ventilation unit can vary in perimeter and thickness. Research of the costs of mechanical ventilation system filters focused on the largest filter available (30 x 36) to calculate the costs to comply with the proposed requirement. The most common filters are one to four inches thick. To upgrade from a one-inch MERV 8 filter (lowest rated filter) at \$41.54 to a one-inch MERV 13 filter at \$49.43 would cost the operator \$7.89 per filter. To upgrade from a four-inch MERV 8 filter at \$74.90 to a four-inch MERV 13 at \$107.26 would cost the operator \$32.36 per filter. The frequency at which the filter would need to be replaced depends on the filter thickness and outdoor air conditions and is therefore variable.⁵ Additionally, it is assumed that some operators are already in compliance with the proposed rule and therefore would not incur any additional costs to upgrade to a higher rated filter. **Incremental Cost Range Per Filter: \$0 - \$32.36.**

It is assumed that the operator would spend two to four hours a year doing routine maintenance and logging the task in a written maintenance record. The average hourly mean wage for an operator in Washington state is estimated at \$26.18.⁶ **Cost Range: \$52.36 - \$104.72.**

WAC 246-358-077 Tent requirements and maintenance and 296-307-16147 Tents.

Description: These sections currently set requirements for the use of tents as TWH for cherry harvest. The proposal requires operators to instruct occupants to close all windows and other outside openings when external conditions could pose a health or safety risk to the occupants.

In addition, the proposed rule provides housekeeping changes which are determined exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(iv) as they do not change the effect of the rule.

Cost(s): The anticipated costs are negligible due to the time it would take for operators or occupants to close windows and other outside openings under external hazardous conditions.

WAC 246-358-175 Disease prevention and control and 296-307-16190 Disease prevention and control.

Description: This section requires operators to cooperate with local health jurisdictions, DOH, and L&I in preventing the spread of communicable diseases. The proposal requires the operators to:

- Cooperate with the local health jurisdiction and DOH in the investigation and control of cases, suspected cases, outbreaks, and suspected outbreaks of communicable diseases or notifiable conditions.

- Immediately report to the local health jurisdictions occupants known to have or suspected to have communicable diseases made notifiable by emergency rule or emergency declaration, as well as other specific symptoms of serious illness.
- Implement infection control measures as required by the local health jurisdiction for the care of occupants who have been exposed to other occupants with a suspected or positive case of a communicable disease.
- Conspicuously post education, in a language commonly understood by all occupants, on the communicable disease related health and safety policies of the TWH.
- Develop a communicable disease prevention and response plan that specifies a process to screen occupants for symptoms of communicable diseases and include isolation and quarantine procedures.
- Provide occupants with access to a thermometer to determine if they have a fever.
- Provide access to a phone if an occupant is isolated or quarantined and information on paid leave and workers compensation, access to medical professionals who offer health care services, and provide food and water at no cost to the occupant.
- Provide transportation for an occupant needing medical attention for a communicable disease or suspected communicable disease at no cost to the occupant.
- Document and provide training to persons responsible for executing the communicable disease prevention and response plan at least annually or when the plan is updated.

Cost(s): Many of the proposed amendments were part of the series of nine emergency rules adopted during the COVID-19 pandemic. At that time, DOH and local health jurisdictions supplied thermometers to operators at no cost. The thermometers that were supplied to operators during the pandemic were FDA-approved "no contact" infrared forehead thermometers that were purchased for \$17.50 each. Similar thermometers cost \$21.99.⁷ The only new expense would be to purchase thermometers if the operator needs to replace the existing thermometers or if a new operator becomes licensed. **Cost Range: \$0 - \$21.99.**

The number of occupants needing urgent care due to a communicable disease could vary widely. The researched cost estimate captures the cost range of a single worker, single occurrence. The assumptions on travel and time for a single worker, single occurrence are presented in SA Table 2.

Table 2. Assumptions for Travel Distance and Time for a Single Occupant, Single Occurrence

| Range | Seeking Care Travel* | | | | Urgent Care Appointment** | Operator Travel*** | | | |
|----------|----------------------|------------|----------------|------------|---------------------------|--------------------|------------|----------------|------------|
| | Distance (miles) | | Time (minutes) | | Time (minutes) | Distance (miles) | | Time (minutes) | |
| | One-way | Round-trip | One-way | Round-trip | Average | One-way | Round-trip | One-way | Round-trip |
| Low-end | 9 | 18 | 18 | 36 | 55 | 0 | 0 | 0 | 0 |
| High-end | 22 | 44 | 30 | 60 | 70 | 30 | 60 | 60 | 180 |

* Estimated from a study from the office of financial management (OFM) (Washington state).⁸

** Average urgent care appointment ranges from 55 to 70 minutes.⁹

*** Estimated through conversations with DOH inspectors.

Table 3 uses assumptions from Table 2 to calculate the total cost range for a single occupant, single occurrence.

Table 3. Calculations for Total Cost Range for a Single Occupant, Single Occurrence

| Range | Variable | Occupant Totals | Occupant Cost**** | Operator Totals | Operator Cost*** |
|------------|-----------|---------------------------------|---------------------------------------|----------------------------------|--|
| Low-end | Miles**** | 18 | 18 x \$0.655 = \$11.79 | 0 | 0 |
| | Time | 36 mins + 55 mins = 91 mins | 2 hours x \$16.85 = \$33.70 | 0 | 0 |
| High-end** | Miles**** | 44 | Added to operator | 60 + 44 = 104 | 104 x \$0.655 = \$68.12 |
| | Time | 60 mins + 70 mins = 130 mins | 3 hours x \$16.85 = \$50.55 | 180 mins + 70 mins = 250 mins | 5 hours x \$26.18 = \$130.90 |

* Rounded-up to the nearest hour.

** High-end operator cost totals assume that the operator goes with the occupant with the appointment (additional time) and takes the worker with them, therefore miles accrue only once under the operator cost.

*** Average mean wage of a worker \$16.85¹⁰ and average mean wage of a first-line supervisor (TWH operator) of \$26.18.¹¹

**** DOH mileage cost based on the estimated rate of \$0.655 per mile.¹²

As the estimates produced are per occupant, per occurrence, the total cost in a given year to an operator and occupant are indeterminate. Additionally, it is recognized that the high-end of the cost range is likely an underestimate as an average length of travel was used, but the time estimate for an infectious disease could be considerably longer. **Cost Range: \$45.49 - \$249.57.**

Local health jurisdictions, DOH, L&I, and CDC have multilingual flyers that are readily available to the public at no cost for operators to use to educate occupants on communicable disease related health and safety policies. It is estimated that it could take up to two hours (time to locate and request copies) for operators to comply with this proposed amendment. The average hourly mean wage for an operator in Washington state is estimated at \$26.18.^{2[12]} **Cost Range: \$0.00 - \$52.36.**

DOH is creating a template for operators to use to assist in the development of a communicable disease prevention and response plan. DOH estimates that it will take approximately two hours for operators to develop the plan using the DOH-created template. The average mean wage of a first-line supervisor (TWH operator) is \$26.18.¹³ **Cost Range: \$0.00 - \$52.36.**

The number of occupants that may need to be isolated or quarantined in a particular year due to a communicable disease could vary widely. The estimated cost captures the cost range of a single occupant, single occurrence.

Operators can employ an H-2A classified worker or a worker that is not classified as an H-2A worker. Section 218 of the Immigration and Nationality Act authorizes the lawful admission into the United States of temporary, nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature.¹⁴ H-2A worker housing standards state that for temporary nonimmigrant workers, the operators will provide three meals a day or have free convenient kitchen space and provide lodging to the workers that they employ. Operators may choose to house workers in transient accommodations such as motels or hotels or have onsite temporary labor housing that conforms to the requirement in chapters 246-358 and 296-307 WAC.^{15,16} Non-H-2A operators may choose on-site operator-owned housing or apartment rentals, but are not required to provide housing for domestic agriculture workers. If the operators choose to provide hous-

ing, they must comply with the requirements of chapters 246-358 and 296-307 WAC.

The assumed low-end cost range to isolate or quarantine an occupant of the TWH would be in housing that the operator owns, that the isolated occupant owns a cell phone or that there is a land line available for use, and the operator would only need to supply the occupant with food and water for the day. It is assumed that the high-end cost range to isolate or quarantine an occupant would include securing an additional hotel/motel room, supplying the isolated occupant with a cell phone (daily rate), and supplying the occupant with food and water. The following assumptions apply:

- The cost of a hotel/motel room ranges from \$98.00 to \$232.00 per day.¹⁷
- The average monthly cost of a cell phone in the United States is \$114.00 (equivalent to around \$4.00 daily).¹⁸
- The daily cost of food (three meals per day) and water is \$59.00.¹⁹

As the length of time that an occupant or occupants may need to be isolated or quarantined in a given year is variable, the total annual cost is indeterminate. **Single Occupant, Single Occurrence, Daily Cost Range: \$59.00 - \$295.00.**

It is estimated that the time to train an individual to execute the communicable disease prevention and response plan will take 30 to 60 minutes of both the operator and the person being trained to execute the plan. The average mean wage of a first-line supervisor (operator/trainer) is \$26.18.²⁰ The average hourly mean wage of an entry level agricultural worker is \$16.85.²¹ **Cost Range: \$21.52 - \$43.03.**

4. Analysis on if the proposed rule may impose more-than-minor costs for businesses in the industry. Includes a summary of how the costs were calculated: While most of the costs of the proposed rule can be estimated, there are some that are indeterminate and variable, as the given multiplier is unknown. The multiplier in Section 3 above is the number of occupants that could need urgent care due to a communicable disease in a given year or the number of occupants that could need to be isolated or quarantined in a particular year due to a communicable disease. Because these are variable and therefore indeterminate costs, the agencies are unable to determine if the costs of the proposed rule are greater than the minor cost threshold ranging from \$421.79 for Grape Vineyards and 3,503.04 for Other Vegetable (except Potato) and Melon Farming.

5. Determination on if the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Explanation of the determination: The agencies do not anticipate that there is any single factor that makes a business more or less likely to be impacted by the proposed rule since quarantine and care costs of occupants are variable and indeterminate over any given year and that the benefits are public health and safety for all. DOH and L&I assumes that there is a disproportionate impact on small businesses.

6. If the proposed rule has a disproportionate impact on small businesses, the following steps have been identified and taken to reduce the costs of the rule on small businesses. DOH and L&I reviewed

the list of methods for reducing the impact on small businesses under RCW 19.85.030 and found them inapplicable.

- Reducing, modifying, or eliminating substantive regulatory requirements is not legal or feasible in meeting the objectives and requirements of Washington Industrial Safety and Health Act (WISHA) and the DOH TWH statute.
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements is not legal or feasible in meeting the objectives and requirements of WISHA and the DOH TWH statute.
- Reducing the frequency of inspections is not legal or feasible in meeting the objectives and requirements of WISHA and the DOH TWH statute.
- Delaying compliance is not legal or feasible in meeting the objectives and requirements of WISHA and the DOH TWH statute.

Reducing or modifying fine schedules for noncompliance. The statutes require DOH and L&I to jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to enforcement, and for the agreement to include, to the extent feasible, inspection and enforcement actions by a single agency, and shall include measures to avoid multiple citations for the same violation. DOH and L&I have a memorandum of understanding addressing enforcement as required. For L&I, reducing fine schedules for noncompliance for small businesses. RCW 49.17.180 addresses the civil penalties for WISHA citations and requires L&I give consideration in the penalty assessment to factors including the size of the employer's business. WAC 296-900-14015 (Table 11) sets forth the specific process for penalty adjustments including employer size, with reductions of 20 percent up to 70 percent.

7. Description of how small businesses were involved in the development of the proposed rule: DOH and L&I communicated on the rule development process via electronic email distribution lists. DOH and L&I developed and shared draft proposed rules and circulated them for stakeholder feedback. Small business employers and organizations representing small businesses were involved throughout these processes and DOH and L&I considered their feedback throughout the process.

8. The estimated number of jobs that will be created or lost in result of the compliance with the proposed rule: DOH and L&I does not anticipate that the compliance with proposed rules will lead to a significant number of job creations or cuts. Employers will be able to meet the proposed requirements using existing staff without new hires. Similarly, it is unlikely that employers would need to dismiss employees as a result of the proposed rule amendments.

¹ Washington State Department of Health. (accessed April 17, 2023). *Temporary Worker Housing (Migrant Farmworker) - Camp Management Plan*. <https://doh.wa.gov/licenses-permits-and-certificates/facilities-z/temporary-worker-and-migrant-farmworker-housing/camp-plan>.

² Washington State Department of Health. (accessed April 17, 2023). *Temporary Worker Housing (Migrant Farmworker) - Camp Management Plan*. <https://doh.wa.gov/licenses-permits-and-certificates/facilities-z/temporary-worker-and-migrant-farmworker-housing/camp-plan>.

³ The Translation Company. (accessed April 17, 2023). *Translation Rated - The Ultimate Guide*. <https://thetranslationcompany.com/resources/5-facts-buying-translation/translation-pricing.htm>.

⁴ Language Network (accessed April 17, 2023). *The History of Language in Washington State*. <https://www.languagenetworkusa.com/blog/the-history-of-language-in-washington-state>.

⁵ Filterbuy, Inc. (accessed March 30, 2023). *Shop by filter size*. <https://filterbuy.com/>.

⁶ U.S. BUREAU OF LABOR STATISTICS (accessed March 30, 2023). *Occupational Employment and Wage Statistics*. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.

⁷ S&S Worldwide. (accessed April 5, 2023). *Infrared Contactless Forehead Thermometer*. Buy Infrared Contactless Forehead Thermometer at S&S Worldwide (ssww.com).

⁸ Yen, W. (2013). *How long and how far do adults travel and will adults travel for primary care*. Washington State Office of Financial Management. How Long and How Far Do Adults Travel and will Adults Travel for Primary Care - Research Brief 70 (wa.gov).

⁹ Accessed on April 15, 2023. Solvhealth.com.

¹⁰ Washington State Department of Labor and Industries. (accessed April 7, 2023). *Agriculture Policies - Wages*. <https://www.lni.wa.gov/workers-rights/agriculture-policies/wages>. (Average of the state minimum wage of \$15.74 per hour and the adverse effect wage rate for Jan 2023 of \$17.97).

- 11 U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). *Occupational Employment and Wage Statistics*. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- 12 Washington State Office of Financial Management. (accessed April 6, 2023). *Per diem rate tables*. Per diem rate tables | Office of Financial Management (wa.gov).
- 13 U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). *Occupational Employment and Wage Statistics*. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- 14 U.S. Department of Labor. (accessed April 14, 2023). *H-2A: Temporary Agricultural Employment of Foreign Workers*. <https://www.dol.gov/agencies/whd/agriculture/h2a>.
- 15 U.S. Department of Labor. (accessed April 9, 2023). *Fact Sheet #26D: Meal Obligations for H-2A Employers*. Fact Sheet #26D: Meal Obligations for H-2A Employers | U.S. Department of Labor (dol.gov).
- 16 U.S. Department of Labor. (accessed April 7, 2023). *H-2A Housing Standards for Rental and Public Accommodations*. Fact Sheet #26G: H-2A Housing Standards for Rental and Public Accommodations | U.S. Department of Labor (dol.gov).
- 17 Washington State Office of Financial Management. (accessed April 6, 2023). *Per diem rate tables*. Per diem rate tables | Office of Financial Management (wa.gov).
- 18 Money Saving Pro. (accessed April 7, 2023). *What is the average cell phone bill per month in 2023?*. What is the Average Cell Phone Bill per Month in 2023? - MoneySavingPro.
- 19 U.S. Department of Labor. (accessed April 9, 2023). *Allowable Meal Charges and Reimbursements for Daily Subsistence*. Meal Charges and Travel Subsistence | U.S. Department of Labor (dol.gov).
- 20 U.S. BUREAU OF LABOR STATISTICS. (accessed March 30, 2023). *Occupational Employment and Wage Statistics*. Washington State hourly mean wage for a First-line supervisor of Framing, Fishing, and Forestry Worker. <https://www.bls.gov/oes/current/oes451011.htm>.
- 21 Washington State Department of Labor and Industries. (accessed April 7, 2023). *Agriculture Policies - Wages*. <https://www.lni.wa.gov/workers-rights/agriculture-policies/wages>. (Average of the state minimum wage of \$15.74 per hour and the adverse effect wage rate for Jan 2023 of \$17.97).

A copy of the statement may be obtained by contacting Nina Helpling, DOH, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3065, TTY 711, email nina.helpling@doh.wa.gov.

May 2, 2023
 Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-4434.2

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 7/16/15)

WAC 246-358-010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

(2) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes, but is not limited to, the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(3) "Bathing facility" means an enclosed area provided by the operator for occupants to bathe or shower, and may be located within a family shelter or a common facility.

(4) "Building" means any structure used or intended by the operator to be used by occupants for cooking, eating, sleeping, sanitation, or other facilities.

(5) "Cherry harvest camp" means a place where housing and related facilities are provided to agricultural employees by agricultural em-

ployers or TWH operators for their use while employed for the harvest of cherries in the state of Washington.

(6) "Common" means a shared facility provided by the operator for all occupants of the TWH.

(7) "Communicable disease" means an illness caused by an infectious agent that can be transmitted from a person, animal, or object to a person by direct or indirect means including, but not limited to, transmission via an intermediate host or vector, food, water, or air.

(8) "Community-based outreach worker" means a legal aid representative, a union representative, or a representative from other community-based advocacy organizations.

(9) "Community health worker" means a frontline public health worker who is a trusted member of or has a close understanding of the community served.

(10) "Dining hall" means a cafeteria-type eating place with food furnished by and prepared under the direction of the operator for consumption, with or without charge, by occupants.

~~((8))~~ (11) "Drinking fountain" means a fixture equal to a nationally recognized standard or a designed-to-drain faucet which provides potable drinking water under pressure. "Drinking fountain" does not mean a bubble-type water dispenser.

~~((9))~~ (12) "Dwelling unit" means a shelter, tent, building, or portion of a building, which may include cooking and eating facilities, that is:

(a) Provided and designated by the operator as either a sleeping area, living area, or both, for occupants; and

(b) Physically separated from other sleeping and common areas. As used in this subsection, "physically separated" means a physical wall separating rooms.

~~((10))~~ (13) "Family shelter" means a dwelling unit with sleeping facilities for up to ~~((fifteen))~~ 15 occupants that may include toilet or cooking facilities. If services such as bathing, food-handling, or toilet facilities are provided in the family shelter, they are for the sole use of the occupants of the family shelter.

~~((11))~~ (14) "First-aid trained" means the person holds a current certificate of first-aid training.

~~((12))~~ (15) "Floor space" means the area within a dwelling unit with a minimum ceiling height of seven feet.

~~((13))~~ (16) "Food-handling facility" means an enclosed area provided by the operator for occupants to prepare their own food, and may be within a family shelter or common facility.

~~((14))~~ (17) "Group A public water system" means a public water system as defined under WAC 246-290-020.

~~((15))~~ (18) "Group B public water system" means a public water system that is not a Group A public water system, and is defined under WAC 246-291-005.

~~((16))~~ (19) "Habitable room" means a room or space in a structure used for living, sleeping, eating, or cooking. Bathing facilities, toilet facilities, closets, halls, storage or utility space, and similar areas are not considered habitable rooms.

~~((17))~~ (20) "Livestock" means horses, cows, pigs, sheep, goats, poultry, etc.

~~((18))~~ (21) "Mechanical ventilation system" means a mechanism that actively processes supplying air to or removing air from an indoor space by powered equipment such as motor-driven fans and blowers but not by devices such as wind-driven turbine ventilators and mechanically operated windows.

~~((22))~~ (22) "Occupant" means a temporary worker or a person who resides with a temporary worker at the TWH.

~~((19))~~ (23) "Operating license" or "license" means a document issued annually by the department of health.

~~((20))~~ (24) "Operator" means a person holding legal title to the land on which the TWH is located. However, if the legal title and the right to possession are in different persons, "operator" means a person having the lawful control or supervision over the TWH.

~~((21))~~ (25) "Outbreak" means the occurrence of a condition in an area over a given period of time in excess of the expected number of occurrences including, but not limited to, foodborne disease, waterborne disease, and health care-associated infection.

(26) "Recreational park trailers" means a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use, that meets the following criteria:

(a) Built on a single chassis, mounted on wheels;

(b) Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode;

(c) Certified by the manufacturer as complying with American National Standards Institute standards A119.5; and

(d) Compliant with chapter 296-150P WAC.

~~((22))~~ (27) "Recreational vehicle" means a vehicular type unit that is compliant with chapter 296-150R WAC and primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive of power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers, but does not include pickup trucks with camper shells, canopies, or other similar coverings.

~~((23))~~ (28) "Refuse" means solid wastes, rubbish, or garbage.

~~((24))~~ (29) "Temporary worker" or "worker" means an agricultural employee employed intermittently and not residing year-round at the same TWH site.

~~((25))~~ (30) "Temporary worker housing (TWH)" or "housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an agricultural employer for his or her agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees for temporary, seasonal occupancy. TWH includes cherry harvest camps.

(31) "Tent" means an enclosure or shelter used at a cherry harvest camp that is constructed of fabric or pliable material composed of rigid framework to support a tensioned membrane that provides a weather barrier.

~~((26))~~ ~~"Temporary worker housing (TWH)" or "housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an agricultural employer for his or her agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees for temporary, seasonal occupancy. TWH includes cherry harvest camps.~~

~~((27))~~ (32) "Worker-supplied housing" means housing provided by the worker and made available to the same worker on the operator's TWH site. Worker-supplied housing includes recreational park trailers, recreational vehicles, tents, or other structures that meet the requirements of this chapter.

[Statutory Authority: Chapter 70.114A RCW and RCW 43.70.334 through 43.70.340. WSR 15-13-091, § 246-358-010, filed 6/15/15, effective

7/16/15. Statutory Authority: RCW 70.114A.065 and 70.114A.110. WSR 00-06-082, § 246-358-010, filed 3/1/00, effective 3/1/00. Statutory Authority: RCW 70.54.110. WSR 96-02-014, § 246-358-010, filed 12/21/95, effective 1/1/96; WSR 93-03-032 (Order 326B), § 246-358-010, filed 1/12/93, effective 2/12/93; WSR 92-04-082 (Order 242B), § 246-358-010, filed 2/5/92, effective 3/7/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-358-010, filed 12/27/90, effective 1/31/91; WSR 88-10-027 (Order 309), § 248-63-010, filed 5/2/88; WSR 84-18-034 (Order 273), § 248-63-010, filed 8/30/84. Formerly WAC 248-60A-010 and 248-61-010.]

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 1/1/16)

WAC 246-358-050 TWH management plan. (1) An operator shall develop and implement a written TWH management plan that must include:

(a) A safety plan that includes (~~the following~~):

(i) Emergency information, including site name and address, emergency contact phone numbers, location of local emergency services, and the department of health bilingual TWH complaint line;

(ii) A plan for contacting a first-aid trained person or emergency services within a reasonable amount of time; and

(iii) Those designated actions operators and occupants (~~must~~) shall take to ensure occupant safety from fire and other emergencies, including the following:

(A) Emergency escape procedures and emergency escape route assignments;

(B) Procedures to account for all occupants after emergency evacuation has been completed;

(C) The preferred means of reporting fires and other emergencies; and

(D) Names or regular job titles of those who can be contacted for further information or explanation of duties under the plan.

(iv) A requirement to designate and train a sufficient number of people to assist in the safe and orderly emergency evacuation of occupants; and

(v) A requirement to regularly and properly maintain, according to established procedures, equipment and systems installed on heat producing equipment to prevent accidental ignition of combustible materials.

(b) Residency rules that describe to the occupants expectations for maintaining a safe and orderly TWH.

(2) The operator shall make available:

(a) A written copy of the TWH management plan, in English and the (~~native language(s) of~~) language commonly understood by the occupants, to the department of health or the department of labor and industries upon request; and

(b) A written copy of the residency rules to occupants, in (~~the occupant's native language(s)~~) English and the language commonly understood by the occupants by:

(i) Posting it in a central location visible to the occupants; and

(ii) Providing individual copies to each occupant, if requested.

(3) When changes are made to the TWH management plan, the operator shall submit the revised TWH management plan to the department of

health within 10 calendar days of the effective date and comply with the requirements in subsection (2)(b) of this section.

[Statutory Authority: Chapter 70.114A RCW and RCW 43.70.334 through 43.70.340. WSR 15-13-091, § 246-358-050, filed 6/15/15, effective 1/1/16.]

NEW SECTION

WAC 246-358-076 Ventilation. (1) If the TWH facility or building has a mechanical ventilation system, the operator shall maintain it according to the manufacturer's specifications and operate the system to provide fresh and filtered air. The operator shall have building maintenance staff or mechanical ventilation system contractors set the system to increase ventilation or the percentage of outside air that circulates in the facility or building and verify the following:

(a) The mechanical ventilation system is fully functional.

(b) The mechanical ventilation system filters have a minimum efficiency reporting value (MERV) rating of at least 13. If the mechanical ventilation system does not support MERV 13 filters, use the highest MERV rating filter supported by the mechanical ventilation system.

(c) The mechanical ventilation system's outdoor air intake is maximized. Reductions in outside air intake may be made when external conditions pose health and safety risks to the occupants.

(d) Maintenance checks occur at the beginning of each growing season when preparing buildings to be reopened. Additional maintenance checks must occur based on manufacturer recommendations, usually quarterly or annually.

(e) Ensure written maintenance records are maintained. The written record must include documentation of filter selection, including a selection reason if less than MERV 13 filtration is used, and filter conditions. Written records must be available for review upon request by the state agency representatives.

(f) Filters in any mechanical ventilation system used in a TWH facility or building must be in good repair and replaced in accordance with manufacturer's instructions.

(2) The operator shall instruct occupants in housing with mechanical ventilation systems to:

(a) Turn on mechanical ventilation systems whenever the TWH facility or building is occupied; and

(b) Temporarily shut down the mechanical ventilation system when external conditions pose health and safety risks to occupants.

(3) In buildings without mechanical ventilation systems, the operator shall instruct occupants to close windows and other outside openings when external conditions pose health and safety risks to occupants.

[]

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 1/1/16)

- WAC 246-358-077 Tent requirements and maintenances.** (1) Only cherry harvest camps may use tents as TWH.
- (2) Each tent must be constructed to sleep no more than (~~five~~) 15 occupants.
- (3) Tents must provide protection from the elements, insects, and animals.
- (4) Structural stability and floors.
- (a) Tents and their supporting framework must be adequately braced and anchored to prevent weather related collapse. The operator shall provide documentation of the structural stability to the department of health, if requested.
- (b) (i) Floors must be smooth, sloped from a raised center towards the lower outer edges.
- (ii) Floors must be without breaks or holes to provide a hard, stable walking surface.
- (iii) Nonridged flooring supported by grass, dirt, soil, gravel or other uneven surface is not acceptable.
- (iv) Floors that are constructed of wood or concrete must comply with the building code, chapter 19.27 RCW, and this chapter.
- (c) Floor systems must be designed to prevent the entrance of snakes, rodents, and other nuisances.
- (5) Flame-retardant treatments.
- (a) The sidewalls, drops, and tops of tents (~~shall~~) must be composed of flame-resistant material or treated with a flame retardant in an approved manner.
- (b) Floor coverings, which are integral to the tent, and the bunting (~~shall~~) must be composed of flame-resistant material or treated with a flame retardant in an approved manner and in accordance with Uniform Building Code, Standard 31.1.
- (c) All tents must have a permanently affixed label bearing the following information:
- (i) Identification of tent size and fabric or material type;
- (ii) For flame-resistant materials, the necessary information to determine compliance with this section and National Fire Protection Association Standard 701, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films;
- (iii) For flame retardant materials, the date that the tent was last treated with an approved flame retardant;
- (iv) The trade name and type of flame retardant used in the flame-retardant treatment; and
- (v) The name of the person and firm that applied the flame retardant.
- (6) Means of egress.
- (a) Tents must have a primary entrance door. At least one door must lead to the outside of the tent. The door must not be obstructed in any manner and must remain free of any material or matter where its presence would obstruct or render the exit hazardous.
- (b) If food-handling facilities are provided in tents, or the tent occupancy capacity is for (~~ten~~) 10 or more occupants, a window allowing egress must be located opposite the door and must have a means to open the window or provide an easily openable space, for example, a zipper which opens downward to the floor, must be provided.
- (7) Floor area. The operator must:

(a) If food-handling facilities are provided in the tent, provide an additional (~~(twenty)~~) 20 square feet of floor space;

(b) Provide at least (~~(fifty)~~) 50 square feet of floor space for each occupant in rooms used for sleeping purposes.

(8) Ceiling height.

(a) A ceiling height of at least seven feet is required in (~~(fifty)~~) 50 percent of the total floor area.

(b) No portion of the tent measuring less than six feet from the flooring to the ceiling will be included in any computation of the floor area.

(9) Windows and ventilation.

(a) The operator shall provide a window area equal to one-tenth of the total floor area in each habitable room which opens at least halfway or more directly to the outside for cross-ventilation and has a minimum of (~~(sixteen-mesh)~~) 16-mesh screens on all exterior openings.

(b) The windows must have weather-resistant flaps, which will cover the window area and a means of fastening the flaps to provide protection from the elements and allow privacy for the occupants.

(c) The operator shall instruct occupants to close windows and other outside openings when external conditions pose a health and safety risk to occupants.

(10) Electrical and lighting. The operator shall ensure that:

(a) Electricity is supplied to all tents used as habitable room.

(b) All electrical wiring, fixtures and electrical equipment must comply with the electrical standards of the department of labor and industries regulations, chapter 19.28 RCW, and local ordinances, and be maintained in a safe condition.

(c) Each tent used as habitable room has at least one ceiling-type light fixture and at least one separate floor-type or wall-type convenience outlet.

(d) If cooking is provided in the tent, appropriate wiring and electrical equipment is provided.

[Statutory Authority: Chapter 70.114A RCW and RCW 43.70.334 through 43.70.340. WSR 15-13-091, § 246-358-077, filed 6/15/15, effective 1/1/16.]

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 7/16/15)

WAC 246-358-175 Disease prevention and control. The operator shall:

~~((1) Report immediately to the local health officer the name and address of any occupant known to have or suspected of having a communicable disease.~~

~~(2) Report immediately to the local health officer:~~

~~(a) Suspected food poisoning;~~

~~(b) Unusual prevalence of fever, diarrhea, sore throat, vomiting, or jaundice;~~

~~(c) Productive cough; or~~

~~(d) When weight loss is a prominent symptom among occupants.~~

~~(3) Prohibit any individual with a communicable disease from preparing, cooking, serving, or handling food, foodstuffs, or materials in dining halls.)~~ (1) Cooperate with the local health jurisdiction

and department of health in the investigation and control of cases, suspected cases, outbreaks, and suspected outbreaks of communicable diseases or notifiable conditions.

(2) Report immediately to the local health jurisdiction the name and address of any occupant or occupants known to have or suspected of having:

(a) Any communicable diseases made notifiable by emergency rule or emergency declaration;

(b) An outbreak of foodborne or waterborne illness; or

(c) Any occurrence of the following symptoms in two or more occupants:

(i) Fever, diarrhea, sore throat, vomiting, or jaundice;

(ii) Coughing up blood or a cough lasting three weeks or longer;

or

(iii) Unexpected weight loss.

(3) Implement infection control measures as required by the local health jurisdiction for care of occupants who have been exposed to other occupants with a suspected or positive case of a communicable disease.

(4) Conspicuously post information regarding the operator's health and safety policies, how to identify symptoms of communicable diseases, to whom to report to if not feeling well, and where and how to secure medical treatment. All information shall be posted in a language commonly understood by the occupants.

(5) Allow entry of community health workers and community-based outreach workers to provide additional information to occupants provided that the community health worker or community outreach worker:

(a) Contacts the operator before visiting the TWH site;

(b) Checks in with designated TWH staff when arriving on the TWH site; and

(c) Wears appropriate personal protective equipment and completes a health screening as required by the local health jurisdiction.

(6) Prohibit any individual with a communicable disease from preparing, cooking, serving, or handling food, foodstuffs, or materials in dining halls.

(7) Develop and follow a communicable disease prevention and response plan that includes:

(a) A process to screen occupants for symptoms of communicable diseases when needed, using symptom lists specified by the local health jurisdiction or department of health;

(b) Providing oral thermometers or "no touch" or "no contact" thermometers for occupants to use as specified by the local health jurisdiction or department of health. Any worker with a temperature of 100.4°F or higher is considered to have a fever;

(c) Contacting the local health jurisdiction immediately as required under subsection (2) of this section and facilitating transportation for any medical evaluation or treatment at no cost to the occupant. If the transportation is not provided by an aid service or ambulance service, the operator shall provide personal protective equipment to individuals providing transportation;

(d) When required by the local health jurisdiction or department of health to quarantine or isolate an occupant to prevent the spread of a communicable disease, the plan must include attestation of the following:

(i) Provide ready access for occupants to telephone service to summon emergency care;

(ii) Provide occupants with information about paid leave and workers compensation;

(iii) Permit access to medical professionals who offer health care services as required by the local health jurisdiction; and

(iv) Provide, at no cost to the occupant, food and water for occupants in isolation or quarantine; and

(8) Provide:

(a) Training for persons responsible to execute the communicable disease prevention and response plan when the plan is updated, or at least annually, if the plan is not updated every year. Information and training must be provided in a manner and language readily understood by the person responsible to execute the plan; and

(b) Documentation of training records must include the name of the person trained and the date that the training occurred. Documentation must be available for review upon request by the state agency representatives.

[Statutory Authority: Chapter 70.114A RCW and RCW 43.70.334 through 43.70.340. WSR 15-13-091, § 246-358-175, filed 6/15/15, effective 7/16/15. Statutory Authority: RCW 70.114A.065 and 70.114A.110. WSR 00-06-082, § 246-358-175, filed 3/1/00, effective 3/1/00. Statutory Authority: RCW 70.54.110. WSR 96-02-014, § 246-358-175, filed 12/21/95, effective 1/1/96; WSR 93-03-032 (Order 326B), § 246-358-175, filed 1/12/93, effective 2/12/93; WSR 92-04-082 (Order 242B), § 246-358-175, filed 2/5/92, effective 3/7/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-358-175, filed 12/27/90, effective 1/31/91; WSR 88-10-027 (Order 309), § 248-63-175, filed 5/2/88.]

WSR 23-10-094
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed May 3, 2023, 11:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-20-115.

Title of Rule and Other Identifying Information: WAC 308-61-195
Abandoned recreational vehicle—Criteria and required information,
308-61-197 Abandoned recreational vehicle—Application and review,
308-61-203 Abandoned recreational vehicle—Reimbursements, and
308-61-215 Abandoned recreational vehicle—Rates and caps.

Hearing Location(s): On June 13, 2023, at 10:00 a.m., join Zoom meeting <https://dol-wa.zoom.us/j/81277647687?pwd=T3A0RU9xdy9TY000TXNreGZpVGdaQT09>, Meeting ID 812 7764 7687, Passcode 295714, one-tap mobile +12532158782,,81277647687#,,,,*295714# US (Tacoma), +12532050468,,81277647687#,,,,*295714# US; dial by your location +1 253 215 8782 US (Tacoma), +1 253 205 0468 US, +1 669 900 6833 US (San Jose), +1 719 359 4580 US, +1 346 248 7799 US (Houston), +1 408 638 0968 US (San Jose), +1 669 444 9171 US, +1 507 473 4847 US, +1 564 217 2000 US, +1 646 876 9923 US (New York), +1 646 931 3860 US, +1 689 278 1000 US, +1 301 715 8592 US (Washington DC), +1 305 224 1968 US, +1 309 205 3325 US, +1 312 626 6799 US (Chicago), +1 360 209 5623 US, +1 386 347 5053 US, Meeting ID 812 7764 7687, Passcode 295714. Find your local number <https://dol-wa.zoom.us/j/81277647687?pwd=T3A0RU9xdy9TY000TXNreGZpVGdaQT09>. If you are having difficulty joining the Zoom meeting at the time of the public hearing, please call 360-902-0131. An in-person option is available at Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: June 14, 2023.

Submit Written Comments to: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, by June 13, 2023.

Assistance for Persons with Disabilities: Contact Kelsey Stone, phone 360-902-0131, email rulescoordinator@dol.wa.gov, by June 8, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is modifying the existing abandoned RV standardized reimbursement schedule and increasing the current reimbursement rates and caps.

Reasons Supporting Proposal: The department is required to convene a stakeholder work group every two years per RCW 46.53.010; these changes were requests identified in the most recent work group.

Statutory Authority for Adoption: RCW 46.53.010 Registered tow truck operators, vehicle wreckers, scrap processors, and scrap metal business may apply for cost reimbursement for towing, transporting, storing, dismantling, and disposing abandoned recreational vehicles—Department to develop rules—Stakeholder work group, and 46.55.190 Rules.

Statute Being Implemented: RCW 46.53.010 Registered tow truck operators, vehicle wreckers, scrap processors, and scrap metal business may apply for cost reimbursement for towing, transporting, storing, dismantling, and disposing abandoned recreational vehicles—Department to develop rules—Stakeholder work group.

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 licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: John Hlavaty, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0324.

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 amendments increase the reimbursable amounts to businesses, including small businesses, for participation in the abandoned RV program. We do not anticipate any businesses will experience increased costs as a result of the changes.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

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. These amendments increase the reimbursable amounts to businesses, including small businesses, for participation in the abandoned RV program. We do not anticipate any businesses will experience increased costs as a result of the changes. These changes were stakeholder and industry requested.

May 3, 2023

Ellis Starrett

Rules and Policy Manager

OTS-4561.1

AMENDATORY SECTION (Amending WSR 19-11-007, filed 5/2/19, effective 6/1/19)

WAC 308-61-195 Abandoned recreational vehicle—Criteria and required information. (1) **What costs will be reimbursed?** Vehicles will be reimbursed for qualified towing, transporting, storing, dismantling, and ~~((disposal))~~ disposing costs ~~((commencing))~~ starting May 1, 2019 ~~((, and after))~~. Activities prior to May 1, 2019, are not ~~((reimbursable))~~ eligible for reimbursement.

(2) **What are the criteria for an abandoned recreational vehicle to be eligible for reimbursement?** The vehicle must:

(a) Be impounded from public property at the direction of law enforcement; and

(b) Be abandoned pursuant to chapter 46.55 RCW; and

(c) Have the last known registered owner be unknown after a reasonable effort compliant with RCW 46.55.100; and

(d) Have received no bids at auction; or

(e) Be declared ~~((an abandoned))~~ a junk vehicle by a law enforcement officer or an authorized junk vehicle inspector.

(3) **What vehicle information must be provided to the department upon request for reimbursement?** All required information, if known, as listed on the department-approved form, to include at a minimum:

- (a) Vehicle identification number (VIN);
- (b) ~~((Model year))~~ Vehicle length;
- (c) Make;
- (d) Model;
- (e) ~~((Body style))~~ Model year;
- (f) ~~((Length))~~ Body style;
- (g) Vehicle type;
- (h) Plate number; and
- (i) Plate state.

[Statutory Authority: RCW 46.55.190 and 46.53.010. WSR 19-11-007, § 308-61-195, filed 5/2/19, effective 6/1/19.]

AMENDATORY SECTION (Amending WSR 19-11-007, filed 5/2/19, effective 6/1/19)

WAC 308-61-197 Abandoned recreational vehicle—Application and review. (1) ~~((What is the application process?))~~ Reimbursement requirements:

(a) All vehicles must first be handled through the abandoned vehicle process with an abandoned vehicle report (AVR) submitted to the department, or through the junk vehicle affidavit process.

(b) The requestor asking for reimbursement must be one of the following businesses and be licensed at the time of the activity ~~((in))~~ for which they are requesting reimbursement:

(i) A registered tow truck operator (RTTO), as defined by RCW 46.55.010(7);

(ii) A vehicle wrecker, as defined by RCW 46.80.010(5);

(iii) A scrap processor, as defined by RCW 46.79.010(2);

(iv) A scrap metal business, as defined by RCW 19.290.010(10).

(c) Each business must complete their business process before making application for reimbursement for that vehicle:

(i) An RTTO's process is considered complete when the vehicle is moved to a licensed vehicle wrecker or scrap processor for disposal. A written record of delivery to a licensed dismantler or authorized disposal site ~~((will also be))~~ is required with the abandoned recreational vehicle application. A copy of that report shall be maintained in the RTTO's vehicle transaction file.

(ii) A vehicle wrecker, scrap processor, or scrap metal business's process is considered complete when the vehicle has been dismantled and/or destroyed in a way that no major component remains usable as the original vehicle. It shall be included on the wrecker monthly report as a destroyed vehicle and a certificate of fact (available on the department's website) stating that the vehicle has been properly and completely destroyed in such manner as to not be usable as a vehicle ~~((r))~~ again.

(d) Each business must possess a current statewide vendor number issued by the office of financial management in order to receive reimbursement.

(e) A request must be submitted on a form prescribed by the department and include a copy of the original AVR, junk title affidavit or title or wrecker/salvage processor monthly report and complete supporting documentation including written record of transport to a li-

censed dismantler or disposal site and all receipts verifying all costs requested for reimbursement.

~~((e))~~ (f) The RTTO, vehicle wrecker, scrap processor, or scrap metal business must submit their request for reimbursement ~~((by the end of the subsequent))~~ within 12 months following the activity for which they are seeking reimbursement.

(2) **What is the review process?**

(a) All requests will be reviewed and processed in the order received.

(b) The application and all required supporting documentation will be reviewed for the vehicle's eligibility and completeness.

(c) Once all qualifying criteria are met, ~~((a notation will be made on the record for that vehicle or a new record will be created for the vehicle))~~ the request will be processed for reimbursement.

(d) Incomplete applications will be returned to the business and will be eligible for reconsideration based on the new date of submission.

(e) Requests missing required supporting documentation may be denied by the department after 45 days.

(f) All vehicles reviewed will be grouped by each individual business submitting the request ~~((and))~~ in the order received ~~((in order))~~ to process one monthly payment.

~~((e))~~ (g) A vehicle summary and totals will be calculated and a disbursement will be ordered by the fifth business day of the following month.

~~((f) Incomplete applications will be returned to the business and will be eligible for reconsideration based on the new date of submission.)~~

(3) **Can I appeal an application that has been denied reimbursement?**

(a) Yes. If an abandoned recreational vehicle has been denied for reimbursement by the department, the business shall be notified by the department in writing what information is required to complete the application for reimbursement or the reasons why the vehicle failed to meet the required criteria. The vehicle may be resubmitted with any required information for additional review.

(b) If the appeal has been reviewed and the vehicle is found to meet all requirements for reimbursement, the vehicle will be processed in the current month and order the appeal was received. Disbursements will be made by the fifth business day of the following month.

[Statutory Authority: RCW 46.55.190 and 46.53.010. WSR 19-11-007, § 308-61-197, filed 5/2/19, effective 6/1/19.]

AMENDATORY SECTION (Amending WSR 19-11-007, filed 5/2/19, effective 6/1/19)

WAC 308-61-203 Abandoned recreational vehicle—Reimbursements.

(1) **When will the reimbursement happen?** The abandoned RV program manager will process all reimbursement by the fifth business day of the month following the month that the reimbursement was received ~~((on vehicles that have met all criteria for eligibility))~~.

(2) **How/when will I get notified of the reimbursement?**

(a) No confirmation of receipt for an application for reimbursement will be sent on any vehicle.

(b) ~~((If a qualified business is receiving a reimbursement for any vehicles that have been submitted, the business will receive one payment for the total of any qualified disbursements processed during the prior month))~~ Reimbursements for multiple vehicles may be lumped into one payment for each business along with a letter of confirmation for the vehicles included in that reimbursement.

(c) If a vehicle is not eligible for reimbursement, the department shall notify the business of the determination in writing.

(3) **What if funds for reimbursements are unavailable?** The reimbursements are dependent upon sufficient funding within the abandoned recreational vehicle account. If sufficient funds are not currently available when an otherwise eligible request is received, the department will hold the request in the order it was received. The department shall notify the requestor in writing that the request is being held. When funding within the abandoned recreational vehicle account is sufficient for disbursement the department will process requests being held for that business in the order they were received.

[Statutory Authority: RCW 46.55.190 and 46.53.010. WSR 19-11-007, § 308-61-203, filed 5/2/19, effective 6/1/19.]

AMENDATORY SECTION (Amending WSR 19-11-007, filed 5/2/19, effective 6/1/19)

WAC 308-61-215 Abandoned recreational vehicle—Rates and caps. At what rates will reimbursements be ~~((for))~~ made?

(1) The costs will be reimbursed at a standardized scheduled rate:

| ((Item | Standard Rate | Cap |
|---|----------------------|-------------------|
| Towing and Transport (Increment Per Hour—Maximum Three Hours Total for Identified Class) | | |
| Class A Tow Vehicle (including — D and E) | \$105.00/hr. | \$315.00 |
| Class B Tow Vehicle | \$120.00/hr. | \$360.00 |
| Class C Tow Vehicle (including — B2 and S1) | \$175.00/hr. | \$525.00 |
| Storage (Increment Per Day — Maximum 10 Days Total) | | |
| Standard Storage | \$35.00/day | \$350.00 |
| Dismantling and Disposal (Increment Per Foot—Maximum per Identified Vehicle Category) | | |
| Motor Homes (Up to 35') | \$70.00/ft. | \$2,450.00 |
| Travel Trailers (Up to 25') | \$70.00/ft. | \$1,750.00 |
| Campers (Up to 15') | \$70.00/ft. | \$1,050.00 |

~~(2) Standard rates apply to:~~

~~(a) Hourly increment of towing and transport by tow vehicle class (i.e., a class 'B' tow vehicle used for two hours is two hundred forty dollars; a class 'C' tow vehicle used for four hours is capped at five hundred twenty dollars).~~

~~(b) Days of storage incurred (i.e., a vehicle stored for eight days is two hundred eighty dollars; a vehicle stored for twenty-five days is capped at three hundred fifty dollars).~~

~~(c) Classification of abandoned recreational vehicle dismantled and disposed up to the cap for that item (i.e., dismantling and disposal of a twenty-seven foot motor home is one thousand eight hundred ninety dollars; dismantling and disposal of a thirty foot travel trailer is capped at one thousand seven hundred fifty dollars).~~

~~(d))~~

| Item | Standard Rate | Cap |
|---|----------------------|--------------------------|
| <u>Towing and Transport (Increment per Hour - Maximum Four Hours Total for Identified RV Length)</u> | | |
| <u>Towing up to 29'</u> | <u>\$150.00/hr.</u> | <u>\$600.00</u> |
| <u>Towing 30' and Over</u> | <u>\$220.00/hr.</u> | <u>\$880.00</u> |
| <u>Ferry Fees</u> | <u>WSDOT</u> | <u>\$350.00</u> |
| <u>Storage (Increment per Day per RV Length - Maximum 20 Days Total) (*Excludes Junk Vehicles)</u> | | |
| <u>Standard Storage up to 29'</u> | <u>\$40.00/day</u> | <u>\$800.00</u> |
| <u>Storage 30' and Over</u> | <u>\$60.00/day</u> | <u>\$1,200.00</u> |
| <u>Dismantling and Disposal (Increment per RV Length)</u> | | |
| <u>30' to 46'</u> | <u>\$80.00/ft.</u> | <u>\$3,680.00</u> |
| <u>20' to 29'</u> | <u>\$75.00/ft.</u> | <u>\$2,175.00</u> |
| <u>Up to 19'</u> | <u>\$70.00/ft.</u> | <u>\$1,330.00</u> |

(2) Proof of length is required for reimbursements based upon vehicle length. Proof of length may be indicated by:

(a) An annotation on the signed tow authorization, junk vehicle affidavit, or affidavit of sale.

(b) A photograph clearly depicting the vehicle length as specified in subsection (3) of this section.

(c) A certificate of fact.

(3) Total length of the recreational vehicle shall be determined by measuring the vehicle type as follows:

~~((i))~~ (a) Motor homes: Measured in feet of total length from the front bumper to the rear bumper, excluding attached storage boxes or trailer or tow hitches.

~~((ii))~~ (b) Travel trailers: Measured in feet of total length from the front of the box to the rear bumper, excluding the front trailer tongue, attached storage boxes or any additional trailer or tow hitches from rear bumper. Fifth-wheel trailers may include the front-cap.

~~((iii))~~ (c) Campers: Measured in feet of total length from the front of the cab-over box to the rear of the box, excluding any attached storage boxes or other accessories.

(4) New rates and caps are effective immediately and are not retroactive for previously submitted claims.

[Statutory Authority: RCW 46.55.190 and 46.53.010. WSR 19-11-007, § 308-61-215, filed 5/2/19, effective 6/1/19.]