

**WSR 11-21-002**  
**PROPOSED RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**  
 [Filed October 5, 2011, 3:07 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Proposed rule revising dates and notice requirements for development review decisions and incorporating SMA changes.

Hearing Location(s): Hood River Best Western Inn, 1108 East Marina Way, Hood River, OR 97031, on February 14, 2012, at 9:00 a.m.

Date of Intended Adoption: February 14, 2012.

Submit Written Comments to: Jill Arens, Executive Director, P.O. Box 730, White Salmon, WA 98672, e-mail crgc@gorgecommission.org, fax (509) 493-2229, by January 30, 2012.

Assistance for Persons with Disabilities: Contact Nancy Andring by January 30, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule modifies the due date for development review decisions from the executive director of the Gorge Commission. The proposed rule does not propose new hard time periods, but rather sets the current fourteen day and seventy-two day time periods as goals. The executive director anticipates meeting these time periods in most cases, but needs the flexibility of surpassing them to manage overall workload and staff resources. The proposed rule also eliminates the requirement that the commission publish notices of development review applications in the local newspaper and send a notice to the local library. Finally, the proposed rule incorporates changes to the management plan for the special management areas that the forest service provided to the commission in 2011 and the commission adopted without change.

Reasons Supporting Proposal: The commission's 2011-2013 budget has forced the commission to reduce staff. As a result, the executive director can no longer assure that she can review applications for completeness within fourteen days or issue standard development review decisions within seventy-two days or expedited review applications within thirty days, which the commission's rules specify. The change to the development review notice requirements saves money, and the changes to the SMA provisions are required by federal law, 16 U.S.C. §§ 544d (c)(5)(A), 544f(1).

Statutory Authority for Adoption: ORS 196.150.

Statute Being Implemented: ORS 196.150; 16 U.S.C. § 544e (c)(1); RCW 43.97.015.

Rule is necessary because of federal law, 16 U.S.C. §§ 544d (c)(5)(A), 544f(1).

Name of Proponent: Columbia River Gorge Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jill Arens, Executive Director, P.O. Box 730, White Salmon, WA, (509) 493-3323.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed amendments do not add substantive regulations. Most of the pro-

posed amendments govern commission procedures and will not have any effect on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed amendments govern only commission procedures and are exempt pursuant to RCW 34.05.328 (5)(b)(ii).

October 5, 2011  
 Nancy A. Andring  
 Administrative Assistant

**Amendatory Section**

**350-081-0036**

**Acceptance of Application**

~~Within 14 days of the receipt of an application,~~ The Executive Director shall review the application for completeness and if complete, shall accept the application for review.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing ~~within 14 days of receipt of the application.~~ The Executive Director shall review supplemental application materials ~~within 14 days after receipt of the materials~~ to determine if the application is complete.

(2) No application for a proposed use, which is explicitly prohibited by this ordinance, shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Executive Director, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

(3) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental materials within 14 days of receipt. The 14-day time periods in this rule are effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Amendatory Section**

**350-081-0042**

**Decision of the Executive Director**

(1) In making a decision on a proposed use or development the Executive Director shall:

(a) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-81-040; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 72 days after acceptance of the application, within 72 days after acceptance of the application except in one or more of the following situations:

~~(a) The applicant consents to an extension of time.~~

~~(b) The Executive Director determines that additional information is required pursuant to Commission Rule 350-81-040.~~

~~(c) The Executive Director determines that additional information is necessary to evaluate land use issues and the impacts of the proposed use to scenic, cultural, natural, and recreation resources.~~

~~(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.~~

(4) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-81-040. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) The 72-day time period in this rule is effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

## Amendatory Section

### **350-081-0054**

#### **Procedures for Expedited Review Process**

##### (1) Applications

(a) Prior to initiating any use or development which requires review and approval by the Executive Director, an application shall be completed pursuant to 350-81-054.

(b) The Executive Director shall accept and review the application pursuant to 350-81-054 for consistency with the appropriate guidelines of this rule.

(c) The Commission may charge a fee for review of applications after a public hearing. The Gorge Commission shall set the fee.

(d) Standard application forms shall be available at the Commission Office, and shall be provided to county and city planning offices for which this ordinance is effective and the Forest Service.

(e) Applications for uses eligible for expedited review shall include the information required for review uses listed in 350-81-032(5). They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

##### (2) Acceptance of Application

~~(a) Within 14 days of the receipt of an application, the Executive Director shall review the application for completeness, and if complete, shall accept the application for review.~~

~~(b) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application. The Executive Director shall review supplemental application materials within 14 days after receipt of the materials to determine if the application is complete.~~

(c) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies in writing within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental application materials within 14 days of receipt of the materials.

##### (3) Notice of Development Review

(a) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

(A) The name of the applicant;

(B) The general and specific location of the subject property;

(C) A brief description of the proposed action;

(D) The deadline for ~~rendering~~ issuing a decision; and

(E) The deadline for filing comments on the proposed action.

(b) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

~~(c) The notice shall state the applicant must comply with all applicable local, state, and federal laws.~~

(d) The notice shall be mailed to the Forest Service, the four Indian tribal governments, applicable county or city planning office(s), libraries and other agencies and interested parties that request a notice or that the Executive Director determines should be notified.

(e) A copy of the notice shall be ~~filed in the records of the Commission~~ posted on the Commission's website.

(4) Comment Period: Any interested person or party shall submit written comments within 10 days from the date a notice is sent.

(5) Written Decision

(a) In making a decision on a proposed use or development the Executive Director shall:

(A) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(B) Consider information submitted by the applicant and all other relevant information available;

(C) Consider all comments submitted pursuant to 350-81-054(4); and

(D) Solicit and consider the comments of the Forest Service.

(b) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(A) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(B) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(c) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81 ~~within 30 days after acceptance of the application.~~ As a goal, the Executive Director shall attempt to issue a decision within 30 days after acceptance of the application.

(d) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) Notice of Decision and Opportunity to Appeal

(a) The Executive Director shall send a copy of a decision issued under the expedited review process to the four Indian tribal governments, the Forest Service, landowners within 200 feet of the perimeter of the subject parcel, and anyone who submitted comments pursuant to 350-81-054(4).

(b) Any person shall be allowed to appeal a decision issued under the expedited review process in accordance with Commission Rule 350-70.

(7) Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses (Commission Rule 350-81-044, above).

(8) Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses (Commission Rule 350-81-046, above).

(9) The time periods in this rule are effective retroactively to all expedited review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

### Amendatory Section

#### **350-081-0038**

#### **Notice of Development Review**

(1) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

(a) The name of the applicant;

(b) The general and specific location of the subject property;

(c) A brief description of the proposed action;

(d) The deadline for ~~rendering~~ issuing a decision; and

(e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

~~(3) The notice shall state the applicant must comply with all applicable local, state, and federal laws.~~

(4) The notice shall be mailed to:

(a) The Forest Service, the applicable state, the four Indian tribal governments, and the applicable county ~~and/or~~ city planning office; and

(b) Owners of property within a radius of the subject parcel(s) as determined by 350-81-630; and

(c) Other agencies and interested parties which request a notice or which the Executive Director determines should be notified.

~~(5) The notice shall be posted at the Commission and shall be sent to the Forest Service offices, and the applicable county or city planning office(s) and libraries.~~

~~(6) For all development, notice shall be published in a newspaper of general circulation nearest to the site of the proposed action.~~

~~(7) A copy of the notice shall be filed in the records of the Commission posted on the Commission's website.~~

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

### Amendatory Section

#### **350-081-0190**

#### **Review Uses—Agricultural Land**

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(b) Agricultural structures, except buildings, in conjunction with agricultural use.

(c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.

(e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(g) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (h)(C)(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock) and acreage.

(ii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling that is included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria listed in 350-81-540 (1)(e).

(j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(k) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator.

(C) The operation is a commercial enterprise, as determined by an evaluation of the factors described in 350-81-190 (1)(h)(C).

(l) Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

(m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(n) Structures associated with hunting and fishing operations.

(o) Towers and fire stations for forest fire protection.

(p) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or signifi-

cantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Large-Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands.

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required by 350-81-076, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-81-310).

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, Large or Small Woodland.

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-81-210).

(t) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270 (2)(x).

(b) Forest uses and practices, as allowed for in 350-81-270 (2)(y).

(c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy C(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial agricultural enterprise as determined by 350-81-190 (2)(c)(C).

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

**(D) Minimum parcel size of 40 contiguous acres.**

(e) Agricultural structures, except buildings, in conjunction with agricultural use.

(f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(g) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i), below.

(h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(k) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(l) Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(m) Aquaculture.

(n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance,

or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.

(o) Utility facilities necessary for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(p) Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.

(q) Community facilities and nonprofit facilities related to agricultural resource management.

(r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(s) Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-81-620.

(u) Road and railroad construction and reconstruction.

(v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(z) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

### **Amendatory Section**

#### **350-081-0370**

#### **Review Uses—Residential Land**

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) One single-family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricultural land [350-81-076 and 350-81-190 (1)(q)(E)], or forest land [(350-81-290 (1)(a) and 350-81-310 (1)(a)]. If the subject parcel is located within a Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (350-81-300).

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(e) Construction or reconstruction of roads.

(f) On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124).

(g) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 590).

(h) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(i) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(j) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(k) Agricultural structures, except buildings, in conjunction with agricultural use.

(l) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(o) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(q) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA-Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines (350-81-520 through 350-81-620):

(a) One single-family dwelling per legally created lot or consolidated parcel not less than 40 contiguous acres. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with Management Plan SMA Policy 13 in Part II, Chapter 2: Forest Land.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) New utility facilities.

(e) Fire stations.

(f) Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(g) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100).

(h) Community parks and playgrounds.

(i) Road and railroad construction and reconstruction.

(j) Forest practices, as specified in 350-81-270 (2)(y).

(k) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(l) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(o) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(p) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270 (2)(x).

**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.

## **Amendatory Section**

### **350-081-0082**

#### **Existing Uses and Discontinued Uses**

##### (1) Right to Continue Existing Uses and Structures

(a) Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.

##### (2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster

(a) Except as provided in 350-81-082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

(D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

##### (3) Replacement of Existing Structures Damaged or Destroyed by Disaster

(a) An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.

(B) The replacement structure shall be in the same location as the original structure. An exception may be granted

and the replacement structure may be sited in a different location if the following conditions exist:

(i) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

(ii) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(iii) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.

(C) The replacement structure shall be the same size and height as the original structure, provided:

(i) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.

(ii) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

(D) The replacement structure shall only be subject to the following scenic resources standards:

(i) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(ii) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(iii) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

(I) Except as provided in 350-81-082 (3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

(II) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

(III) To help determine how much vegetation may be required under 350-81-082 (3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photo-



tographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

(1) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

(2) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

(3) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

(IV) The height of any new trees shall not be required to exceed 5 feet.

(V) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

(iv) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(I) The *Scenic Resources Implementation Handbook* shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(II) The height of any new trees shall not be required to exceed 5 feet.

(III) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

(E) The replacement structure shall be subject to 350-81-082 (2)(a)(A), (B), and (C) above if it would not comply with 350-81-082 (3)(a)(B) and (C).

(F) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

#### (4) Changes to Existing Uses and Structures

(a) Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-81.

~~(A) Expansion of Existing Commercial and Multifamily Residential Uses: In the SMA, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources. Expansion beyond the dedicated site shall be prohibited.~~

~~(AB) Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.~~

~~(BC) Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development~~

or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:

(i) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.

(ii) The site has not maintained a required state permit.

(iii) The site has not operated legally within 5 years before October 15, 1991.

~~(CD) Existing Development or Production of Mineral Resources in the SMA: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMA may continue if both of the following conditions exist:~~

~~(i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.~~

~~(ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.~~

#### ~~(5) Discontinuance of Existing Uses and Structures~~

~~(a) Except as provided in 350-81-082 (3)(a) and (3)(a)(F), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.~~

~~(A) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.~~

~~(B) Change in Use: An existing use or structure shall become discontinued if the use or use of the structure changes.~~

#### ~~(6) Discontinued Uses and Structures:~~

~~(a) Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.~~

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## **Amendatory Section**

### **350-081-0620**

#### **Special Management Area Recreation Resource Review Criteria**

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as pro-

posed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services and motorized wheelchairs.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in 350-81-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same recreation intensity class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Executive Director may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites offering similar opportunities, including those in Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part 1 of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(G) Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.

(2) Special Management Areas Recreation Intensity Class Guidelines

(a) Recreation Intensity Class 1 (Very Low Intensity)  
Emphasis is to provide opportunities for semi-primitive recreation.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

(C) The following uses may be permitted:

(i) Trails and trailheads.

(ii) Parking areas.

(iii) Dispersed campsites accessible only by a trail.

(iv) Viewpoints and overlooks.

(v) Picnic areas.

(vi) Signs.

(vii) Interpretive exhibits and displays.

(viii) Restrooms.

(b) Recreation Intensity Class 2 (Low Intensity)

Emphasis is to provide opportunities for semi-primitive recreation.

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity for parking areas shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(i) Campgrounds ~~with vehicle access for twenty (20) units or less, tent sites only.~~

(ii) Boat anchorages designed for no more than 10 boats at one time.

(iii) Swimming areas.

(c) Recreation Intensity Class 3 (Moderate Intensity)

Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) The maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity for parking areas shall be 50 vehicles. The GMA vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10 percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

(i) Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations.

(ii) Boat anchorages designed for not more than 15 boats.

(iii) Public visitor, interpretive, historic, and environmental education facilities.

(iv) Full-service restrooms, may include showers.

(v) Boat ramps.

(vi) Riding stables.

(d) Recreation Intensity Class 4 (High Intensity)

Emphasis is on providing roaded natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1,000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The GMA vehicle capacity level of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

### **Amendatory Section**

**350-081-0550**

#### **Special Management Area Cultural Resource Review Criteria.**

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470aa and 36 CFR 296.18.

(b) All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in 350-81-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(e) Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

(2) The procedures and guidelines in 350-81-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The procedures and guidelines in 36 CFR 800 and 350-81-550(4) shall be used by the Executive Director and

federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

(4) The following procedures as well as the provisions in 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources shall be used to assess potential effects to cultural resources.

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) A field inventory by a cultural resource professional shall be required if the Forest Service or the Executive Director determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supple-

mented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Executive Director for review.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Executive Director shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) An assessment of effect shall be required if the Forest Service or the Executive Director determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Executive Director shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.4, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.5 to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.11 ("Failure to Resolve Adverse Effects").

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Executive Director shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Executive Director if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Executive Director, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Executive Director shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to 350-81-550 (4)(c) and report the results to the Forest Service or the Executive Director.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Executive Director determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to

350-81-550 (4)(e) if the Forest Service or the Executive Director determines that the cultural resource is significant.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

### Amendatory Section

#### **350-081-0600**

#### **Special Management Areas Natural Resource Review Criteria**

(1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-81-032).

(2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)

(a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (2)(a)(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

(A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

(B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

(II) The wetland is not critical habitat.

(III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(C) The buffer width shall be increased for the following:

(i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(F) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached.

(b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)

(d) Wetlands Boundaries shall be delineated using the following:

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(B) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)'.

(D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

(e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

(f) The Executive Director may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Executive Director shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(A) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

(h) Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: wetlands, streams, ponds, lakes, riparian areas and their buffer zones.

### (3) Wildlife and Plants

(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area.

Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA

Forest Service – Scenic Area Office and available on the Gorge Commission website.

(b) The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).

(c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(A) Identify/verify the precise location of the wildlife and/or plant area or site,

(B) Determine if a field survey will be required,

(C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and

(D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(iii) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached

(d) The Executive Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander.

(B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(E) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(F) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.

(G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

Priority Habitats Table	
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.

Priority Habitats	Criteria
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

(f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

(g) The Executive Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision.

Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be

consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(h) The Executive Director shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

(i) Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: sites within 1,000 feet of sensitive wildlife areas and sites; and 2) sites within 1,000 feet of rare plants.

(4) Soil Productivity

(a) Soil productivity shall be protected using the following guidelines:

(A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(B) New developments and land uses shall control all soil movement within the area shown on the site plan.

(C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

#### **Practicable Alternative Test**

(1) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

(a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(b) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(c) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

#### **Mitigation Plan**

(1) Mitigation Plan shall be prepared when:

(a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).

(b) There is no practicable alternative (see the "practicable alternative" test).

(2) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

(3) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

(4) The applicant shall submit the mitigation plan to the Executive Director. The Executive Director shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposite conclusion was reached.

(5) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

(6) Mitigation plans shall include maps, photographs, and text. The text shall:

(a) Describe the biology and/or function of the sensitive resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.

(b) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

(c) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

(d) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.

(e) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

(7) At a minimum, a project applicant shall provide to the Executive Director a progress report every 3-years that



documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

(8) A final monitoring report shall be submitted to the Executive Director for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The Executive Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Executive Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

(9) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

(a) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

(c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

(d) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the Executive Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.

(e) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(f) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.

(C) Fish passage shall be protected from obstruction.

(D) Restoration of fish passage should occur wherever possible.

(E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(F) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(G) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(I) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2:1

Creation: 3:1

Enhancement: 4:1

(g) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.

(h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in guideline (9)(f)(I). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

**Amendatory Section****350-081-0020****Definitions**

As used in Commission Rule 350-81, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) **Accepted agricultural practice:** A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) **Accessory structure/building:** A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

(3) **Active wildlife site:** A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) **Addition:** An extension or increase in the area or height of an existing building.

(5) **Agency official:** The federal, state, or local agency head or designee who has authority over a proposed project.

(6) **Agricultural specialist (SMA):** A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

(7) **Agricultural structure/building:** A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(8) **Agricultural use:** The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(9) **Anadromous fish:** Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(10) **Anaerobic:** A condition in which molecular oxygen is absent (or effectively so) from the environment.

(11) **Aquaculture:** The cultivation, maintenance, and harvesting of aquatic species.

(12) **Aquatic area:** The water area of a stream, pond, or lake measured at the ordinary high water mark.

(13) **Archaeological resources:** See cultural resource.

(14) **Archival research:** Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(15) **Bed and breakfast inn:** An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(16) **Best management practices:** Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(17) **Biodiversity (SMA):** A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(18) **Boat landing:** Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(19) **Buffer zone:** An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(20) **Building:** Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

(21) **Camping or recreational vehicle:** A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(22) **Campsite:** Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(23) **Capability:** The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(24) **Canopy closure (SMA):** For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

(25) **Cascadian architecture (SMA):** Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(26) **Catastrophic situations (SMA):** Forces such as fire, insect and disease infestations, and earth movements.

(27) **Childcare center:** A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(28) **Columbia River Gorge National Scenic Area Graphic Signing System:** Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(29) **Commercial development/use:** Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(30) **Commercial forest products:** These include timber for lumber, pulp, and firewood for commercial purposes.

(31) **Commercial recreation:** Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(32) **Community facility:** Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(33) **Consulting parties (cultural resources):** Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(34) **Contiguous land:** Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(35) **Counties:** The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(36) **Created opening (SMA):** A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

(37) **Creation (wetlands):** A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(38) **Cultivation:** Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(39) **Cultural resource:** Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(40) **Cumulative effects:** The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(41) **Cut:** An area where soil or earth is excavated or removed in conjunction with development activities.

(42) **Dedicated site:** An area actively devoted to the current use and as delineated on the site plan.

(43) **Deer and elk winter range:** Areas normally used, or capable of being used, by deer and elk from December through April.

(44) **Destruction of wetlands:** Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(45) **Developed recreation:** Recreational opportunities characterized by high-density use on specific sites and require-

ing facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(46) **Developed road prism (SMA):** The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

(47) **Development:** Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(48) **Diameter at breast height (dbh):** The diameter of a tree as measured at breast height.

(49) **Duplex:** A building containing two dwelling units and designed for occupancy by two families.

(50) **Dwelling, single-family:** A detached building containing one dwelling unit and designed for occupancy by one family only.

(51) **Dwelling unit:** A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(52) **Earth materials:** Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

(53) **Effect on treaty rights:** To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(54) **Emergency/disaster:** A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

(55) **Emergency/disaster response:** Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

(56) **Endemic:** Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(57) **Enhancement (natural resources):** A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(58) **Ephemeral streams (SMA):** streams that contain flowing water only during, and for a short duration after, precipitation events.

(59) **Ethnography:** The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(60) **Existing use or structure:** Any use or structure that was legally established. "Legally established" means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

(61) **Exploration, development (extraction and excavation), and production of mineral resources:** Includes all or any part of the process of surface, underground, or sub-merged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(62) **Fill:** The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(63) **Finished grade:** The final elevation of the ground level of a property after construction is completed.

(64) **Fire break:** A break in ground cover fuels, adjacent to and surrounding buildings.

(65) **Footprint:** The area that falls directly beneath and shares the same perimeter as a structure.

(66) **Forbs:** Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(67) **Foreground (SMA):** One-half mile on either side of a traveled road or trail.

(68) **Forest health (SMA):** A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

(69) **Forest practice (SMA):** Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing,

brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

(70) **Forest practice (GMA):** Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(71) **Forest products:** Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(72) **Forest stand structure (SMA):** The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

(73) **Forest use:** The growing, propagation, and harvesting of forest tree species and other forest products.

(74) **Fully screened:** A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(75) **Grade (ground level):** The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(76) **Grading:** Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(77) **Hazard tree (SMA):** A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

(78) **Height of building:** The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

(79) **Herbaceous:** A plant with no persistent woody stem above the ground, with characteristics of an herb.

(80) **Herbs:** Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(81) **Historic buildings and structures:** See cultural resource.

(82) **Historic survey:** Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(83) **Horses, boarding of (GMA):** The stabling, feeding, and grooming, or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

(84) **Hydric soil:** A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(85) **In-lieu sites:** Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(86) **Indian tribal government:** The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

(87) **Indian tribes:** The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(88) **Industrial uses:** Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(89) **Interpretive displays:** Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(90) **Key components:** The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(91) **Key viewing areas:** Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

(a) Historic Columbia River Highway;

(b) Crown Point;

(c) Highway I-84, including rest stops;

(d) Multnomah Falls;

(e) Washington State Route 14;

(f) Beacon Rock;

(g) Panorama Point Park;

(h) Cape Horn;

(i) Dog Mountain Trail;

(j) Cook-Underwood Road;

(k) Rowena Plateau and Nature Conservancy Viewpoint;

(l) Portland Women's Forum State Park;

(m) Bridal Veil State Park;

- (n) Larch Mountain;
- (o) Rooster Rock State Park;
- (p) Bonneville Dam Visitor Centers;
- (q) Columbia River;
- (r) Washington State Route 141;
- (s) Washington State Route 142;
- (t) Oregon Highway 35;
- (u) Sandy River;
- (v) Pacific Crest Trail;
- (w) SMA only;
- (x) Old Washington State Route 14 (County Road 1230);
- (y) Wyeth Bench Road;
- (z) Larch Mountain Road;
- (aa) Sherrard Point on Larch Mountain.

(92) **Land division:** The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(93) **Landscape setting:** The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(94) **Livestock feedlot:** Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(95) **Lot line adjustment:** Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

(96) **Maintenance:** Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

(97) **Mitigation:** The use of any or all of the following actions:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(98) **Mosaic (SMA):** The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

(99) **Multifamily dwelling:** A dwelling constructed or modified into two or more single-family units.

(100) **Native species:** Species that naturally inhabit an area.

(101) **Natural grade:** The undisturbed elevation of the ground level of a property before any excavation or construction operations.

~~(102)(a) **Natural resources (SMA):** Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.~~

~~(b) **Natural Resources (GMA):** Wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas.~~

(103) **Natural resource specialist:** A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(104) **Natural resource-based recreation (SMA):** Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(105) **Nonprofit organization:** An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(106) **Not visually evident (SMA):** A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

(107) **Old growth (SMA):** A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

(108) **Operational (SMA):** For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

(109) **Ordinary high water mark:** The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(110) **Other related major structure (SMA):** A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

(111) **Overstory (SMA):** For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

**(112) Parcel:**

(a) Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land solely created to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(113) **Practicable:** Able to be done, considering technology and cost.

(114) **Preexisting:** Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(115) **Previously disturbed:** An area of land where the natural surface has been graded, excavated, paved and/or graveled.

(116) **Project area:** The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(117) **Public use facility:** Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(118) **Rare plant species:** Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(119) **Recreation facility:** A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(120) **Reconnaissance survey:** Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, sub-surface testing, and ethnographic research.

(121) **Recreation opportunity spectrum (ROS):** A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(122) **Recreation resources:** Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(123) **Regularly maintained:** An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

(124) **Rehabilitation (natural resources):** A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(125) **Remnant old forest (SMA):** Large trees in the overstory that are well into the mature growth state (older than 180 years).

(126) **Repair:** Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

(127) **Resource-based recreation:** Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(128) **Restoration (wetlands):** A human activity that converts an area that was formerly a wetland back into a wet-

land. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(129) **Review uses:** Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(130) **Riparian area:** The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(131) **Road:** The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(132) **Scenic Area:** The Columbia River Gorge National Scenic Area.

(133) **Scenic travel corridor:** Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(134) **Secretary:** The Secretary of Agriculture.

(135) **Sensitive plant species:** Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(136) **Sensitive wildlife species:** Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(137) **Service station:** A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(138) **Serviceable:** Presently useable.

(139) **Shall:** Action is mandatory.

(140) **Should:** Action is encouraged.

(141) **Shrub:** A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(142) **Sign:** Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(143) **Significant cultural resource (SMA):** A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(144) **Skyline:** The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(145) **Soil capability class:** A classification system developed by the U.S. Department of Agriculture, Natural Resources Conservation Service to group soils as to their capability for agricultural use.

(146) **Special habitat area:** Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(147) **Special streams:** Streams that are primary water supplies for fish hatcheries and rearing ponds.

(148) **Stand:** A group of trees possessing uniformity in regard to type, age, vigor, or size.

(149) **Story:** A single floor level of a structure, as defined by the Uniform Building Code.

(150) **Streams:** Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey



streams naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(151) **Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(152) **Submit:** To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

(153) **Subsurface testing:** Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(154) **Suitability:** The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(155) **Thinning (SMA):** A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

(156) **Total canopy closure (SMA):** For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

(157) **Travelers accommodations:** Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(158) **Treatment (SMA):** For forest practices, a site-specific operation that carries out the forest management objectives for an area.

(159) **Treaty rights or other rights:** Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(160) **Tributary fish habitat:** Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(161) **Understory (SMA):** For forest practices, the shorter or immature trees below the tall or mature overstory trees.

(162) **Undertaking:** Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)].

(163) **Unimproved lands:** Lands that generally do not have developments such as buildings or structures.

(164) **Upland:** Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(165) **Uses allowed outright:** New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(166) **Utility facility:** Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(167) **Vested right:** The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(168) **Viewshed:** A landscape unit seen from a key viewing area.

(169) **Visual quality objective (VQO):** A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention (not visually evident) and partial retention (visually subordinate), and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(170) **Visually subordinate:** A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(171) **Water-dependent:** Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(172) **Water-related:** Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(173) **Wetlands:** Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(174) **Wetlands functions:** The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(175) **Winery:** An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

(176) **Wine sales/tasting room:** A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in 350-81-108. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(177) **Woody plant:** A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

**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 11-22-032**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed October 26, 2011, 9:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-15-104.

Title of Rule and Other Identifying Information: To implement ESHB 2082, Laws of 2011, the department is proposing to make the following changes:

- Amend WAC 388-273-0020, 388-406-0005, 388-406-0045, 388-406-0055, 388-408-0005, 388-416-0010, 388-424-0010, 388-424-0015, 388-436-0030, 388-442-0010, 388-450-0040, 388-450-0045, 388-450-0095, 388-450-0100, 388-450-0115, 388-450-0120, 388-450-0130, 388-450-0156, 388-450-0170, 388-460-0020, 388-460-0040, 388-468-0005, 388-473-0010, 388-474-0010, 388-474-0020, 388-476-0005, 388-478-0035, and 388-486-0005.
- Repeal WAC 388-400-0025, 388-404-0010, 388-408-0010, 388-418-0025, 388-424-0016, 388-448-0001, 388-448-0010, 388-448-0020, 388-448-0030, 388-448-0035, 388-448-0040, 388-448-0050, 388-448-0060, 388-448-0070, 388-448-0080, 388-448-0090, 388-448-0100, 388-448-0110, 388-448-0120, 388-448-0130, 388-448-0140, 388-448-0150, 388-448-0160, 388-448-0180, 388-448-0200, 388-448-0210, 388-448-0220, 388-448-0250, 388-450-0110, 388-450-0135, 388-450-0175, 388-462-0011, and 388-478-0030.
- Create WAC 388-400-0055, 388-400-0060, 388-408-0060, 388-449-0001, 388-449-0005, 388-449-0010, 388-449-0015, 388-449-0020, 388-449-0030, 388-449-0035, 388-449-0040, 388-449-0045, 388-449-0050, 388-449-0060, 388-449-0070, 388-449-0080, 388-449-0100, 388-449-0150, 388-449-0200, 388-449-0210, 388-449-0220, 388-449-0225, 388-450-0112, 388-450-0137, 388-450-0177, 388-478-0027, and 388-478-0033.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on December 27, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 28, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on December 27, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by December 13, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [jennisha.johnson@dshs.wa.gov](mailto:jennisha.johnson@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending, repealing and creating new rules to terminate all components of the disability lifeline program, and to establish the aged, blind, or disabled assistance and the pregnant women assistance programs to comply with ESHB 2082, Laws of 2011.

Reasons Supporting Proposal: These changes are necessary to conform to ESHB 2082, Laws of 2011.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335.

Statute Being Implemented: ESHB 2082, Laws of 2011.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Aurea Figueroa-Rogers, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4623.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by defining eligibility for pregnant women assistance and aged, blind, or disabled cash assistance.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

October 18, 2011

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-18-106, filed 9/3/02, effective 10/4/02)

**WAC 388-273-0020 Who may receive Washington telephone assistance program (WTAP)?** (1) To receive WTAP benefits, you must:

- (a) Be age eighteen or older or, if under eighteen, be the responsible head of household, and either;
- (b) Be receiving one of the following programs from us:
  - (i) Temporary assistance for needy families (TANF);
  - (ii) State family assistance (SFA);
  - (iii) ~~((General assistance))~~ Pregnant women assistance (PWA);
  - (iv) Aged, blind, or disabled (ABD) cash assistance;
  - (v) Refugee assistance;
  - ~~((vi))~~ (vi) Food assistance;
  - ~~((vii))~~ (vii) State Supplemental Security Income (SSI);
  - ~~((viii))~~ (viii) Medical assistance, including medicare cost sharing programs;
  - ~~((ix))~~ (ix) Community options program entry system (COPEs);
  - ~~((x))~~ (x) Chore services; or
  - (c) Have completed using community service voice mail services, and been identified to the department as eligible for WTAP by the community agency that provided your community service voice mail program; and

(2) Apply to a local exchange company for WTAP and request the lowest available flat rate telephone service at the WTAP rate. In exchange areas where wireline service is not available without service extension, you may apply to a wireless carrier:

(a) "**Local exchange company**" means a telephone company that is required by the Washington utilities and

transportation commission to offer WTAP benefits and offers local calling, i.e., calling without long distance charges.

(b) "**Flat rate service**" is telephone service with a single monthly payment that allows unlimited local calling for a specified length of time. The local exchange flat rate includes any federal end user access charges and other charges necessary to obtain the service; and

(3) You must have the local telephone service billed in your name.

NEW SECTION

**WAC 388-400-0055 Who is eligible for the pregnant women assistance (PWA) program?** Effective November 1, 2011:

(1) You can get pregnant women assistance (PWA), if you:

- (a) Are pregnant as verified by a medical statement;
- (b) Meet the citizenship/alien status requirements of WAC 388-424-0010;
- (c) Live in the state of Washington per WAC 388-468-0005;
- (d) Do not live in a public institution unless specifically allowed under RCW 74.08.025;
- (e) Meet TANF/SFA:
  - (i) Income requirements under chapter 388-450 WAC;
  - (ii) Resource requirements under chapter 388-470 WAC;
- and
- (iii) Transfer of property requirements under chapter 388-488 WAC.

(f) Tell us your social security number as required under WAC 388-476-0005;

(g) Report changes of circumstances as required under WAC 388-418-0005; and

(2) If you are an unmarried pregnant minor your living arrangements must meet the requirements of WAC 388-486-0005.

(3) You cannot get PWA if you:

- (a) Are eligible for temporary assistance for needy families (TANF) benefits;
- (b) Are eligible for state family assistance (SFA) benefits;
- (c) Refuse or fail to meet a TANF or SFA eligibility rule;
- (d) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220; or
- (e) Are eligible for supplemental security income (SSI) benefits.

NEW SECTION

**WAC 388-400-0060 Who is eligible for aged, blind or disabled (ABD) cash assistance?** (1) Effective November 1, 2011, you are eligible for aged, blind, or disabled (ABD) cash benefits if you:

- (a) Are:
  - (i) At least sixty-five years old;
  - (ii) Blind as defined by the Social Security Administration (SSA); or
  - (iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and

(b) Are at least eighteen years old or, if under eighteen, a member of a married couple;

(c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470 and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0010;

(d) Meet the citizenship/alien status requirements under WAC 388-424-0015;

(e) Provide a social security number as required under WAC 388-476-0005;

(f) Reside in the state of Washington as required under WAC 388-468-0005;

(g) Sign an interim assistance reimbursement authorization to agree to repay the monetary value of general assistance, disability lifeline, or aged blind or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210 and 388-474-0020;

(h) Report changes of circumstances as required under WAC 388-418-0005; and

(i) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

(2) You aren't eligible for aged, blind, or disabled cash benefits if you:

(a) Are eligible for temporary assistance for needy families (TANF) benefits;

(b) Are eligible for state family assistance (SFA) benefits;

(c) Refuse or fail to meet a TANF or SFA eligibility rule;

(d) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220;

(e) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200;

(f) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225;

(g) Are eligible for supplemental security income (SSI) benefits;

(h) Are an ineligible spouse of an SSI recipient; or

(i) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

(3) If you reside in a public institution and meet all other requirements, your eligibility for ABD cash depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for ABD cash if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and:

(A) Sixty-five years of age or older; or

(B) Twenty years of age or younger.

(4) You aren't eligible for ABD cash when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:

(a) In a work release program; or

(b) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 09-19-129, filed 9/22/09, effective 11/1/09)

**WAC 388-406-0005 Can I apply for cash, medical, or Basic Food?** (1) You can apply for any benefit the department offers, including cash assistance, medical assistance, or Basic Food.

(2) You must meet certain eligibility requirements in order to receive a program benefit.

(3) You can apply for someone else if you are:

(a) A legal guardian, caretaker, or authorized representative applying for:

(i) A dependent child;

(ii) An incapacitated person; or

(iii) Someone who is deceased.

(b) Applying for someone who cannot apply for some other reason. We may ask why the applicant is unable to apply on their own behalf.

(4) If you get Supplemental Security Income (SSI), you do not need to apply for medical benefits. We automatically open medical benefits for you.

(5) A person or agency may apply for ~~((GAU))~~ ABD cash or medical assistance for you if:

(a) You temporarily live out-of-state; and

(b) You are a Washington state resident.

(6) When you are confined or incarcerated in a Washington state public institution, you may apply for cash or medical assistance if you meet the following criteria:

(a) You are confined by or in the following public institutions:

(i) Department of corrections;

(ii) City or county jail; or

(iii) Institution for mental diseases (IMD).

(b) Staff at the public institution provide medical records including diagnosis by a mental health professional that you have a mental disorder (as defined in the Diagnostic and Statistical Manual of Psychiatric Disorders, most recent edition) that affects your thoughts, mood or behavior so severely that it prevents you from performing any kind of work.

(7) We will make an eligibility determination for medical assistance prior to your release from confinement and will authorize medical benefits upon your release from confinement when you:

(a) Meet the criteria of subsection (6) in this section; and

(b) Were receiving medicaid ~~((or general assistance benefits))~~ immediately before confinement or within the five years prior to confinement.

(8) If you meet the criteria in subsection (6) but did not receive medicaid ~~((or general assistance benefits))~~ within the five years prior to confinement, the department will process your request for medical assistance within the time frames in WAC 388-406-0035.

(9) If you are applying for assistance for a youth leaving incarceration in a juvenile rehabilitation administration or county juvenile detention facility, you may apply for assistance within forty-five days prior to release. We will process your application for medical assistance when we receive it, and if eligible, we will authorize medical benefits upon the youth's release from confinement.

AMENDATORY SECTION (Amending WSR 09-19-129, filed 9/22/09, effective 11/1/09)

**WAC 388-406-0045 Is there a good reason my application for cash or medical assistance has not been processed?** If your application for cash or medical assistance is not processed within the time limits under WAC 388-406-0035, the department must decide if there is a good reason for the delay. This good reason is also called "good cause."

(1) We do not have a good reason for not processing your application for TANF or SFA within thirty days if:

(a) We did not give or send you a notice of what information we needed to determine your eligibility within twenty days from the date of your application;

(b) We did not give or send you a notice that we needed additional information or action within five calendar days of the date we learned that more information was needed to determine eligibility;

(c) We did not process your application within five calendar days from getting the information needed to decide eligibility; and

(d) We decide good cause exists but do not document our decision in the case record on or before the time limit for processing the application ends.

(2) We do have a good reason for not processing your application timely if:

(a) You do not give us the information or take an action needed for us to determine eligibility;

(b) We have an emergency beyond our control; or

(c) There is no other available verification for us to determine eligibility and the eligibility decision depends on information that has been delayed such as:

(i) Medical documentation;

(ii) For cash assistance, extensive property appraisals; or

(iii) Out-of-state documents or correspondence.

(3) For medical assistance, good cause exists only when the department otherwise acted promptly at all stages of the application process.

(4) For ~~((general assistance (GA)))~~ ABD cash, good cause exists if you apply when you are confined in a Washington State public institution as defined in WAC 388-406-0005 (6)(a).

AMENDATORY SECTION (Amending WSR 10-11-033, filed 5/11/10, effective 7/1/10)

**WAC 388-406-0055 When do my benefits start?** The date we approve your application affects the amount of benefits you get. If you are eligible for:

(1) Cash assistance, your benefits start:

(a) The date we have enough information to make an eligibility decision; or

(b) No later than the thirtieth day for TANF, SFA, PWA, or RCA; or

(c) No later than the forty-fifth day for ~~((general assistance (GA)))~~ aged, blind, or disabled (ABD) cash assistance unless you are confined in a Washington state public institution as defined in WAC 388-406-0005 (6)(a) on the forty-fifth day, in which case your benefits will start on the date you are released from confinement.

(2) Basic Food, your benefits start from the date you applied unless:

(a) You are recertified for Basic Food. If you are recertified for Basic Food, we determine the date your benefits start under WAC 388-434-0010;

(b) You applied for Basic Food while living in an institution. If you apply for Basic Food while living in an institution, the date you are released from the institution determines your start date as follows. If you are expected to leave the institution:

(i) Within thirty days of the date we receive your application, your benefits start on the date you leave the institution; or

(ii) More than thirty days from the date we receive your application, we deny your application for Basic Food. You may apply for Basic Food again when your date of release from the institution is closer.

(c) We were unable to process your application within thirty days because of a delay on your part. If you caused the delay, but submit required verification by the end of the second thirty-day period, we approve your benefits starting the date you provide the required verification. We start your benefits from this date even if we denied your application for Basic Food.

(d) We initially denied your application for Basic Food and your assistance unit (AU) becomes categorically eligible (CE) within sixty days from the date you applied. If your AU becoming CE under WAC 388-414-0001 makes you eligible for Basic Food, the date we approve Basic Food is the date your AU became CE.

(e) You are approved for transitional food assistance under chapter 388-489 WAC. We determine the date transitional benefits start as described under WAC 388-489-0015.

(f) You receive transitional food assistance with people you used to live with, and are now approved to receive Basic Food in a different assistance unit:

(i) We must give the other assistance unit ten days notice as described under WAC 388-458-0025 before we remove you from the transitional food assistance benefits.

(ii) Your Basic Food benefits start the first of the month after we remove you from the transitional benefits. For example, if we remove you from transitional benefits on November 30th, you are eligible for Basic Food on December 1st.

(3) Medical assistance, the date your benefits start is stated in chapter 388-416 WAC.

(4) For long-term care, the date your services start is stated in WAC 388-106-0045.

AMENDATORY SECTION (Amending WSR 03-17-066, filed 8/18/03, effective 9/18/03)

**WAC 388-408-0005 What is a cash assistance unit?** (1) For all sections of this chapter:

(a) "**We**" means the department of social and health services.

(b) "**You**" means a person that is applying for or getting benefits from the department.

(c) "**Assistance unit**" or "**AU**" is the group of people who live together and whose income or resources we count to

decide your eligibility for benefits and the amount of benefits you get.

(2) For ~~((GA-U))~~ ABD cash, we decide who is in the AU under WAC ~~((388-408-0010))~~ 388-408-0060.

(3) For TANF, PWA, or SFA, we decide who is in the AU by taking the following steps:

(a) We start with who must be in the AU under WAC 388-408-0015;

(b) We add those you choose to have in the AU under WAC 388-408-0025; and

(c) We remove those who are not allowed in the AU under WAC 388-408-0020.

#### NEW SECTION

**WAC 388-408-0060 Who is in my assistance unit for aged, blind, or disabled (ABD) cash assistance?** (1) If you are an adult that is aged, blind, or likely to be disabled as defined in WAC 388-400-0060, 388-449-0001, you can be in a ABD cash assistance unit (AU);

(2) If you are married and live with your spouse, we decide who to include in the AU based on who is aged, blind, or likely to be disabled:

(a) If you are both aged, blind, or likely to be disabled as defined in WAC 388-400-0060, 388-449-0001, we include both of you in the same AU.

(b) If only one spouse is aged, blind, or likely to be disabled, we include only the aged, blind, or likely to be disabled spouse in the AU. We count some of the income of the spouse that is not in the AU as income to the AU under WAC 388-450-0135.

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

**WAC 388-416-0010 Medical certification periods for recipients of cash assistance programs.** (1) The certification period for medical services begins on the first day of the month of application when the client is determined eligible for cash assistance for one of the following programs:

(a) Temporary assistance for needy families (TANF);

(b) Aged, blind, or disabled (ABD) cash assistance;

(c) Pregnant women assistance (PWA);

(d) Supplemental Security Income (SSI); or

~~((e))~~ (e) Refugee assistance.

(2) The certification period for the medical programs associated with the cash programs in subsection (1) of this section continues as long as eligibility for these programs lasts. When a client's cash assistance is terminated, eligibility for medical assistance is continued until eligibility is redetermined as described in WAC 388-418-0025.

(3) The certification period for medical can begin up to three months prior to the month of application for clients described in subsection (1) of this section if the conditions in WAC 388-416-0015(6) apply.

~~((4))~~ The certification period for medical care services begins on the date eligibility begins for the following cash assistance programs:

(a) ~~General assistance for unemployable persons (GA-U); or~~

~~(b) Alcohol and Drug Abuse Treatment and Support Act (ADATSA) programs, when the client is either receiving a grant or waiting for treatment to begin.~~

~~(5) The certification period for medical care services for clients in subsection (4) of this section runs concurrently with the period of eligibility for the client's cash assistance program.)~~

AMENDATORY SECTION (Amending WSR 11-16-056, filed 7/29/11, effective 8/29/11)

**WAC 388-424-0010 Citizenship and alien status—Eligibility for TANF, medicaid, and CHIP.** (1) To receive temporary assistance for needy families (TANF), medicaid, or children's health insurance program (CHIP) benefits, an individual must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

(a) A United States (U.S.) citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien";

(e) A victim of trafficking; or

(f) A Hmong or Highland Lao.

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF, medicaid, and CHIP.

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF, medicaid, or CHIP for five years after obtaining status as a qualified alien unless the criteria in WAC 388-424-0006 (4) or (5) are met.

(4) A lawfully present "nonqualified alien" child or pregnant woman as defined in WAC 388-424-0001 who meet residency requirements as defined in WAC 388-468-0005 may receive medicaid or CHIP.

(5) An alien who is ineligible for TANF, medicaid or CHIP because of the five-year bar or because of their immigration status may be eligible for:

(a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program) and WAC 388-438-0110 (alien medical program); or

(b) State-funded cash or chemical dependency benefits as described in WAC 388-424-0015 (state family assistance (SFA), ~~((disability lifeline (DL)))~~ aged, blind, or disabled (ABD) cash, and the Alcohol and Drug Addiction Treatment and Support Act (ADATSA)), and medical benefits as described in WAC 388-424-0016; or

(c) Pregnancy medical benefits for noncitizen women as described in WAC 388-462-0015(3); or

(d) State-funded apple health for kids as described in WAC 388-505-0210(5).

AMENDATORY SECTION (Amending WSR 11-16-056, filed 7/29/11, effective 8/29/11)

**WAC 388-424-0015 Immigrant eligibility restrictions for the state family assistance, ~~((general assistance))~~ ABD cash, PWA, and ADATSA programs.** (1) To receive state family assistance (SFA) benefits, you must be:

(a) A "qualified alien" as defined in WAC 388-424-0001 who is ineligible for TANF due to the five-year bar as described in WAC 388-424-0006(3); or

(b) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005, including a noncitizen American Indian who does not meet the criteria in WAC 388-424-0001.

(2) To receive ~~((general assistance (GA)))~~ aged, blind, or disabled (ABD) cash or pregnant women assistance (PWA) benefits, you must be ((ineligible for the TANF, SFA, or SSI program for a reason other than failure to cooperate with program requirements, and belong to one of the following groups as defined in WAC 388-424-0001):

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking as defined in WAC 388-424-0001; or

(e) A nonqualified alien ~~((who meets the Washington state residency requirements as listed in WAC 388-468-0005))~~ described in WAC 388-424-0001 who:

(i) Has verified their intent to stay in the United States indefinitely; and

(ii) The United States Immigration and Customs Enforcement is not taking steps to enforce their departure.

(3) To receive ADATSA benefits, you must belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking; or

(e) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.

AMENDATORY SECTION (Amending WSR 11-02-037, filed 12/29/10, effective 2/1/11)

**WAC 388-436-0030 How does my eligibility for other possible cash benefits impact my eligibility for CEAP ~~((depends on other possible cash benefits))?~~** (1) You are ineligible for CEAP if you, or a household member, are eligible for any of the following programs:

(a) TANF or SFA, unless the family has had its case grant terminated due to WAC 388-310-1600 within the last six months;

(b) Pregnant women assistance (PWA);

(c) RCA;

~~((e) Disability lifeline (DL))~~ (d) Aged, blind, or disabled (ABD) cash;

~~((d))~~ (e) Supplemental Security Income (SSI);

~~((e))~~ (f) Medical assistance for those applicants requesting help for a medical need;

~~((f))~~ (g) Food assistance for those applicants requesting help for a food need;

~~((g))~~ (h) Housing assistance from any available source for those applicants requesting help for a housing need;

~~((h))~~ (i) Unemployment compensation, veteran's benefits, industrial insurance benefits, Social Security benefits, pension benefits, or any other source of financial benefits the applicant is potentially eligible to receive.

(2) The department may require the applicant, or anyone in the assistance unit, to apply for and take any required action to receive benefits from programs described in the above subsection (1)(a) through (h).

(3) The department may not authorize CEAP benefits to any household containing a member who is:

(a) Receiving cash benefits from any of the following programs:

(i) TANF/SFA;

(ii) PWA;

(iii) RCA;

~~((iii))~~ (iv) DCA; or

~~((iv) DL)~~ (v) ABD cash.

(b) Receiving reduced cash benefits for failure to comply with program requirements of TANF/SFA, or RCA.(-)

(4) The department may authorize CEAP to families reapplying for TANF/SFA who are not eligible for TANF cash benefits under WAC 388-310-1600 until they complete the four week participation requirement.

AMENDATORY SECTION (Amending WSR 05-21-100, filed 10/18/05, effective 11/18/05)

**WAC 388-442-0010 How does being a fleeing felon impact my eligibility for benefits?** (1) You are a **fleeing felon** if you are fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony in the place from which you are fleeing.

(2) If you are a fleeing felon, or violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision, you are not eligible for TANF/SFA, ~~((GA))~~ PWA, ABD cash, or Basic Food benefits.

NEW SECTION

**WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?** For the purposes of this chapter, "we" and "us" refer to the department of social and health services.

"You" means the applicant or recipient.

"Disabled" is defined by the Social Security Administration for supplemental security income (SSI) as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

"Physical impairment" means a diagnosable physical illness.

"Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

(1) We determine if you are likely to be disabled when:

(a) You apply for ABD cash benefits;

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We receive new information that indicates you may be employable.

(2) We determine you are likely to be disabled if:

(a) You are determined to be disabled by the Social Security Administration (SSA);

(b) You are determined to meet SSA disability criteria by disability determination services (DDDS);

(c) The Social Security Administration (SSA) stops your supplemental security income (SSI) payments solely because you are not a citizen;

(d) You are eligible for long-term care services from aging and disability services administration for a medical condition that is expected to last twelve months or more or result in death; or

(e) You are approved through the sequential evaluation process (SEP) defined in WAC 388-449-0005 through 388-449-0100. The SEP is the sequence of five steps. Step 1 considers whether you are currently working. Steps 2 and 3 consider medical evidence and whether you are likely to meet a listed impairment under Social Security's rules. Steps 4 and 5 consider your residual functional capacity and vocational factors such as age, education, and work experience in order to determine your ability to do your past work or other work.

(3) If you have a physical or mental impairment and you are impaired by alcohol or drug addiction and do not meet the other disability criteria in subsection (2) (a) through (d) above, we decide if you are eligible for ABD cash by applying the sequential evaluation process described in WAC 388-449-0005 through 388-449-0100. You aren't eligible for ABD cash benefits if you are disabled primarily because of alcoholism or drug addiction.

(4) In determining disability, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: sitting, standing, walking, lifting, carrying, handling, and other physical functions (including manipulative or postural functions, (such as reaching, handling, stooping, or crouching) seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervision and coworkers, and tolerating the pressures of a work setting.

(5) We determine you are not likely to meet SSI disability criteria if SSA denied your application for SSI or Social Security Disability Insurance (SSDI) in the last twelve months unless:

(a) You file a timely appeal with SSA;

(b) SSA decides you have good cause for a late appeal;

or

(c) You give us medical evidence of a potentially disabling condition that SSA did not consider or that your condition has deteriorated; and

(i) You give us proof that SSA denied your request to reconsider your claim; or

(ii) You give us proof that you don't meet the nondisability criteria for SSI.

#### NEW SECTION

**WAC 388-449-0005 Sequential evaluation process step 1—How does the department determine if you are performing substantial gainful employment?** We deny disability if you are engaging in substantial gainful activity (SGA) when you apply for aged, blind, or disabled (ABD) benefits. "Substantial gainful activity" means you are performing, in a regular and predictable manner, an activity usually done for pay or profit.

(1) You must be earning less than the SGA standard as defined by the Social Security Administration (SSA) to be eligible for ABD cash, unless you work:

(a) Under special conditions that go beyond the employer providing reasonable accommodation, such as in a sheltered workshop; or

(b) Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job as verified by your employer.

#### NEW SECTION

**WAC 388-449-0010 What evidence do we consider to determine disability?** To determine whether a medically determinable impairment exists, we consider medical evidence from "acceptable medical sources." "Acceptable medical sources" include:

(1) For a physical impairment, a health professional licensed in Washington State or where the examination was performed:

(a) A physician, which includes:

(i) Medical doctor (M.D.);

(ii) Doctor of osteopathy (D.O.);

(iii) Doctor of optometry (O.D.) for visual disorders;

(iv) Doctor of podiatry (D.P.) for foot disorders; and

(v) Qualified speech-language pathologists, for purposes of establishing speech or language impairments only.

(2) For a mental impairment, professionals licensed in Washington State or where the examination was performed:

(a) A psychiatrist; or

(b) A psychologist.

(3) We accept medical evidence of how your impairment(s) affect your ability to function from treating medical sources once a diagnosis of a medically determinable impairment has been established by an "acceptable medical source" listed in (1) and (2) above:

(a) All medical professionals listed in (1) and (2) above;

(b) A physician who is currently treating you for a mental impairment;

(c) A physician's assistant who is currently treating you for a physical impairment; and

(d) An advanced nurse practitioner who is treating you for a condition within their certification.

(4) "Other evidence" means information from other sources not listed in subsection (1), (2), or (3) of this section who can provide supporting documentation of functioning for impairments established by acceptable medical sources in subsections (1) or (2) of this section. Other sources include public and private agencies, nonmedical sources such as schools, parents and caregivers, social workers and employ-



ers, and other practitioners such as naturopaths, chiropractors, and audiologists.

#### NEW SECTION

**WAC 388-449-0015 What medical evidence do I need to provide?** You must give us medical evidence of your impairment(s) and how they affect your ability to perform regular and continuous work activity. Medical evidence must be in writing and be clear, objective, and complete.

- (1) Objective evidence for physical impairments means:
  - (a) Laboratory test results;
  - (b) Pathology reports;
  - (c) Radiology findings including results of X rays and computer imaging scans;
  - (d) Clinical findings, including but not limited to ranges of joint motion, blood pressure, temperature or pulse, and documentation of a physical examination; and
  - (e) Hospital history and physical reports and admission and discharge summaries; or
  - (f) Other medical history and physical reports related to your current impairments.
- (2) Objective evidence for mental impairments means:
  - (a) Clinical interview observations, including objective mental status exam results and interpretation.
  - (b) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).
  - (c) Hospital, outpatient and other treatment records related to your current impairments.
  - (d) Testing results, if any, including:
    - (i) Description and interpretation of tests of memory, concentration, cognition or intelligence; or
    - (ii) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.
  - (3) Medical evidence sufficient for a disability determination must be from a medical professional described in WAC 388-449-0010 and must include:
    - (a) A diagnosis for the impairment, or impairments, based on an examination performed by an acceptable medical source defined in WAC 388-449-0010 within five years of application;
    - (b) A clear description of how the impairment relates to your ability to perform the work-related activities listed in WAC 388-449-0005;
    - (c) Documentation of how long a condition has impaired your ability to perform work related activities;
    - (d) A prognosis, or written statement of how long an impairment will impair your ability to perform work related activities; and
    - (e) A written statement from a medical professional (defined in WAC 388-449-0010) describing what you are capable of doing despite your impairment (medical source statement) based on an examination performed within ninety days of the date of application or forty-five days before the month of disability review.
  - (4) We will consider documentation in addition to objective evidence to support the acceptable medical source or

treating provider's opinion that you are unable to perform substantial gainful employment, such as proof of hospitalization.

- (5) When making a disability decision, we don't use your report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.
- (6) We don't use symptoms related to substance abuse or a diagnosis of addiction or chemical dependency when determining disability if substance use is material to your impairment.
- (7) We consider diagnoses that are independent of addiction or chemical dependency when determining disability.
- (8) We determine you have a diagnosis that is independent of addiction or chemical dependency if the impairment will persist at least ninety days after you stop using drugs or alcohol.
- (9) If you can't obtain medical evidence sufficient for us to determine if you are likely to be disabled without cost to you, and you meet the other eligibility conditions in WAC 388-400-0060, we pay the costs to obtain objective evidence based on our published payment limits and fee schedules.
- (10) We determine the likelihood of disability based solely on the objective information we receive. We are not obligated to accept another agency's or person's decision that you are disabled or unemployable.
- (11) We can't use a statement from a medical professional to determine that you are disabled unless the statement is supported by objective medical evidence.

#### NEW SECTION

- WAC 388-449-0020 How does the department evaluate functional capacity for mental health impairments?** If you have a mental impairment, we evaluate ability to function in a work setting based on objective narrative clinical assessment from a medical professional as described in WAC 388-449-0010. We may also use other evidence as described in WAC 388-449-0010. Functioning means your ability to perform typical tasks that would be required in a routine job setting and your ability to interact effectively while working.
- (1) We evaluate cognitive and social functioning by assessing your ability to:
    - (a) Understand, remember, and persist in tasks by following simple instructions of one or two steps.
    - (b) Understand, remember, and persist in tasks by following complex instructions of three or more steps.
    - (c) Perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.
    - (d) Learn new tasks.
    - (e) Perform routine tasks without undue supervision.
    - (f) Adapt to changes in a routine work setting.
    - (g) Make simple work-related decisions.
    - (h) Be aware of normal hazards and take appropriate precautions.
    - (i) Ask simple questions or request assistance.
    - (j) Communicate and perform effectively in a work setting with public contact.
    - (k) Communicate and perform effectively in a work setting with limited public contact.

- (l) Complete a normal workday and workweek without interruptions from psychologically based symptoms.
- (m) Set realistic goals and plan independently.

**NEW SECTION**

**WAC 388-449-0030 How does the department evaluate functional capacity for physical impairments?** If you have a physical impairment, we evaluate your ability to work based on objective medical evidence from a medical professional as described in WAC 388-449-0010. We may also use other evidence as described in WAC 388-449-0010.

(1) **"Exertion level"** means having strength, flexibility, and mobility to lift, carry, stand or walk as needed to fulfill job duties in the following work levels. For this section, "occasionally" means less than one-third of the time and "frequently" means one-third to two-thirds of the time.

The following table is used to determine your exertion level. Included in this table is a strength factor, which is your ability to perform physical activities, as defined in Appendix C of the Dictionary of Occupational Titles (DOT), Revised Edition, published by the U.S. Department of Labor as posted on the Occupational Information Network (O\*NET).

If you are able to:	Then we assign this exertion level
(a) Lift ten pounds maximum and frequently lift or carry lightweight articles. Walking or standing only for brief periods.	Sedentary
(b) Lift twenty pounds maximum and frequently lift or carry objects weighing up to ten pounds. Walk six out of eight hours per day or stand during a significant portion of the workday. Sitting and using pushing or pulling arm or leg movements most of the day.	Light
(c) Lift fifty pounds maximum and frequently lift or carry up to twenty-five pounds.	Medium
(d) Lift one hundred pounds maximum and frequently lift or carry up to fifty pounds.	Heavy

(2) **"Exertional limitation"** means a restriction in mobility, agility or flexibility in the following twelve activities: balancing, bending, climbing, crawling, crouching, handling, kneeling, pulling, pushing, reaching, sitting, and stooping. We consider any exertional limitations when we determine your ability to work.

(3) **"Functional physical capacity"** means the degree of strength, agility, flexibility, and mobility you can apply to work-related activities. We consider the effect of the physical impairment on the ability to perform work-related activities when the physical impairment is assigned an overall severity rating of three or four. We determine functional physical capacity based on your exertional and nonexertional limitations. All limitations must be substantiated by the med-

ical evidence and directly related to the diagnosed impairment(s).

(4) **"Nonexertional physical limitation"** means a restriction on work activities that does not affect strength, mobility, agility, or flexibility. Environmental restrictions may include, among other things, your inability to work in an area where you would be exposed to chemicals.

(5) **"Functional limitations"** means a restriction on work activities caused by unrelieved pain or the effects of medication prescribed to treat an impairment. We determine your functional limitations based on objective documentation from a medical professional as described in WAC 388-449-0010. We may also use other evidence as described in WAC 388-449-0010. We evaluate functioning by assessing your ability to:

- (a) Perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.
- (b) Perform routine tasks without undue supervision.
- (c) Make simple work-related decisions.
- (d) Be aware of normal hazards and take appropriate precautions.
- (e) Ask simple questions or request assistance.

**NEW SECTION**

**WAC 388-449-0035 How does the department assign severity ratings to my impairment?** (1) "Severity rating" is a rating of the extent of your impairment and how it impacts your ability to perform the basic work activities. The following chart provides a description of limitations on work activities and the severity ratings that would be assigned to each.

Effect on Work Activities	Degree of Impairment	Numerical Value
(a) There is no effect on your performance of basic work-related activities.	None	1
(b) There is no significant effect on your performance of basic work-related activities.	Mild	2
(c) There are limits on your performance of basic work-related activities.	Moderate	3
(d) There are significant limits on your performance of basic work-related activities.	Marked	4
(e) You are unable to perform basic work-related activities.	Severe	5

(2) We use the description of how your condition impairs your ability to perform work activities given by the acceptable medical source or your treating provider, and review other evidence you provide, to establish severity ratings when the impairments are supported by, and consistent with, the objective medical evidence.

(3) A contracted doctor reviews your medical evidence and the ratings assigned to your impairment when:

(a) The medical evidence indicates functional limitations consistent with at least a moderate physical or mental health impairment;

(b) Your impairment has lasted, or is expected to last, twelve months or more with medical treatment.

(4) The contracted doctor reviews your medical evidence, severity ratings, and functional assessment to determine whether:

(a) The Medical evidence is objective and sufficient to support the findings of the provider;

(b) Description of impairments is supported by the medical evidence; and

(c) Severity rating and assessment of functional limitations assigned by DSHS are consistent with the medical evidence.

(5) If the medical provider's description of your impairment(s) is not consistent with the objective evidence, we will assign a severity rating consistent with objective medical evidence, and clearly describe why we rejected the medical evidence provider's opinion.

**NEW SECTION**

**WAC 388-449-0040 How does the department determine the severity of mental impairments?** If you are diagnosed with a mental impairment by an acceptable medical source described in WAC 388-449-0010, we use information from medical sources described in WAC 388-449-0010 to determine how the impairment limits work-related activities.

(1) We review the following psychological evidence to determine the severity of your mental impairment:

(a) Psychosocial and treatment history records;

(b) Clinical findings of specific abnormalities of behavior, mood, thought, orientation, or perception;

(c) Results of psychological tests; and

(d) Symptoms observed by the examining practitioner, and other evidence, that show how your impairment affects your ability to perform basic work-related activities.

(2) We exclude diagnosis and related symptoms of alcohol or substance abuse or addiction.

(3) If you are diagnosed with mental retardation, the diagnosis must be based on the Wechsler Adult Intelligence Scale (WAIS). The following test results determine the severity rating:

Intelligence Quotient (IQ) Score	Severity Rating
85 or above	None (1)
71 to 84	Moderate (3)
60 to 70	Marked (4)
59 or lower	Severe (5)

(4) If you are diagnosed with a mental impairment with physical causes, we assign a severity rating based on the most severe of the following four areas of impairment:

- (a) Short term memory impairment;
- (b) Perceptual or thinking disturbances;
- (c) Disorientation to time and place; or
- (d) Labile, shallow, or coarse affect.

(5) We base the severity of an impairment diagnosed as a mood, thought, memory, or cognitive disorder on a clinical assessment of the intensity and frequency of symptoms that:

(a) Affect your ability to perform basic work related activities; and

(b) Are consistent with a diagnosis of a mental impairment as listed in the most recent published edition of the Diagnostic and Statistical Manual of Mental Disorders.

(6) The Global Assessment of Functioning (GAF) is a numeric scale (0 through 100) used to rate the social, occupational, and psychological functioning of adults.

(7) We base the severity rating for a functional mental impairment on accumulated severity ratings for the symptoms in subsection (5) (a) of this section as follows:

Symptom Ratings or Condition	Severity Rating
(a) The objective evidence and global assessment of functional score are consistent with a limitation on performing work activities.	Moderate (3)
(b) You are diagnosed with a functional disorder with psychotic features. (c) You have had two or more hospitalizations for psychiatric reasons in the past two years. (d) You have had more than six months of continuous psychiatric inpatient or residential treatment in the past two years. (e) The objective evidence and global assessment of functioning score are consistent with significant limitations on ability to perform work activities.	Marked (4)
(f) The objective evidence and global assessment of functioning score are consistent with the absence of ability to perform work activities.	Severe (5)

(8) If you are diagnosed with any combination of mental retardation, mental impairment with physical causes, or functional mental impairment, we assign a severity rating as follows:

Condition	Severity Rating
(a) Two or more disorders with moderate severity (3) ratings; or (b) One or more disorders rated moderate severity (3), and one rated marked severity (4).	Marked (4)
(c) Two or more disorders rated marked severity (4).	Severe (5)

**NEW SECTION**

**WAC 388-449-0045 How does the department determine the severity of physical impairments?** We must decide if your physical impairment is serious enough to significantly limit your ability to perform substantial gainful

activity. "Severity of a physical impairment" means the degree that an impairment restricts you from performing basic work-related activities (see WAC 388-449-0005). Severity ratings range from none to severe. We will assign severity ratings according to the table in WAC 388-449-0035.

We assign to each physical impairment a severity rating that is supported by medical evidence.

**NEW SECTION**

**WAC 388-449-0050 How does the department determine the severity of multiple impairments?** (1) If you have more than one impairment, we decide the overall severity rating by determining if your impairments have a combined effect on your ability to be gainfully employed. Each diagnosis is grouped by affected organ or function into one of thirteen "body systems." The thirteen body systems consist of:

- (a) Musculo-skeletal;
- (b) Special senses and speech;
- (c) Respiratory;
- (d) Cardiovascular;
- (e) Digestive;
- (f) Genito-urinary;
- (g) Hematological;
- (h) Skin;
- (i) Endocrine;
- (j) Neurological;
- (k) Mental disorders;
- (l) Malignant neoplastic; and
- (m) Immune system.

(2) We follow these rules when there are multiple impairments:

- (a) We group each diagnosis by body system.
- (b) When you have two or more diagnosed impairments that limit work activities, we assign an overall severity rating as follows:

Your Condition	Severity Rating
(i) All impairments are mild and there is no cumulative effect on basic work activities.	Mild
(ii) All impairments are mild and there is a cumulative effect on basic work activities.	Moderate
(iii) Two or more impairments are of moderate severity and there is a cumulative effect on basic work activities.	Marked
(iv) Two are more impairments are of marked severity.	Severe

**NEW SECTION**

**WAC 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits?** When we receive your medical evidence, we review it to determine if it is sufficient to decide whether your circumstances meet disability requirements.

(1) We require written medical evidence to determine disability. The medical evidence must:

- (a) Contain sufficient information as described under WAC 388-449-0015;
- (b) Be written by an acceptable medical source or treating provider described in WAC 388-449-0010;
- (c) Document the existence of a potentially disabling condition by an acceptable medical source described in WAC 388-449-0010; and
- (d) Document an impairment has lasted, or is expected to last, twelve continuous months or more, or result in death.

(2) If the information received isn't clear, we may require more information before we determine your ability to perform substantial gainful activity. As examples, we may require you to get more medical tests or be examined by a medical specialist.

(3) We deny disability if:

- (a) We don't have evidence that your impairment is of at least marked severity as defined in WAC 388-449-0035, 388-449-0040, 388-449-0045, or 388-449-0050;
- (b) A reported impairment isn't expected to last twelve or more months or result in death; or
- (c) Drug or alcohol abuse or addiction is material to your impairments.

**NEW SECTION**

**WAC 388-449-0070 Sequential evaluation process step III—How does the department determine if you meet SSA listing of impairments criteria?** We approve disability when we determine your impairment(s) meet the listings as described in appendix 1 to Subpart P of Part 404 within Title 20 of the Code of Federal Regulations.

**NEW SECTION**

**WAC 388-449-0080 Sequential evaluation process step IV—How does the department evaluate if I am able to perform relevant past work?** (1) If we neither deny disability at Step 1 or 2 nor approve it at Step 3, we consider our assessment of your physical and/or mental functional capacity, per WAC 388-449-0020, 388-449-0030, to determine if you can do work you have done in the past.

(2) We evaluate your work experience to determine if you have relevant past work and transferable skills. "Relevant past work" means work:

- (a) Defined as substantial gainful activity per WAC 388-449-0005; and
- (b) You have performed in the past fifteen years; and
- (c) You performed long enough to acquire the knowledge and skills to continue performing the job. You must meet the specific vocational preparation level as defined in Appendix C of the Dictionary of Occupational Titles.

(3) For each relevant past work situation, we compare:

- (a) The exertional, nonexertional, and skill requirements of the job based on the Appendix C of the Dictionary of Occupational Titles.
- (b) Your current cognitive, social, exertional, and nonexertional factors that significantly limit your ability to perform past work.

(4) We deny disability when we determine that you are able to perform any of your relevant past work regularly and continuously.

(5) We approve disability when you are fifty-five years of age or older and don't have the physical, cognitive, or social ability to perform past work.

**NEW SECTION**

**WAC 388-449-0100 Sequential evaluation process step V—How does the department evaluate if I can perform other work when determining disability?** If we decide you cannot do work that you have done before, we then decide if you have the residual functional capacity to perform other work.

(1) We evaluate education in terms of formal schooling or other training to acquire skills that enables you to meet job requirements. We classify education as:

<b>If you</b>	<b>Then your education level is</b>
(a) Can't read or write a simple communication, such as two sentences or a list of items.	Illiterate

<b>If you</b>	<b>Then your education level is</b>
(b) Have no formal schooling or vocational training beyond the sixth grade.	Marginal education
(c) Have no formal schooling or vocational training beyond the eleventh grade; or (d) Had participated in special education in basic academic classes of reading, writing or mathematics in high school.	Limited education
(e) Have received a high school diploma or general equivalency degree (GED) and don't meet the special education definition in (d) above; or (f) Have received skills training and were awarded a certificate, degree or license.	High school and above level of education

(2) We approve disability when you have a marked or severe physical health impairment and you meet the criteria below:

<b>Exertional Level</b>	<b>Your age</b>	<b>Your education level</b>	<b>Other vocational factors</b>	<b>Environmental and Functional limitations</b>
Less than sedentary	Any age	Any level	Does not apply	Does not apply
Sedentary	Any age	Any level	Does not apply	You have marked or severe environmental or functional impairments that preclude all sedentary work
Sedentary	Fifty and older	Any level	Does not apply	Does not apply
Sedentary	Forty-five and older	Marginal education or limited English proficiency (LEP)	No transferable skills to work level	Does not apply
Light	Any age	Any level	Does not apply	You have marked or severe environmental or functional impairments that preclude all sedentary work
Light	Fifty and older	Marginal education or limited English proficiency (LEP)	Does not apply	Does not apply

(3) We approve disability when you have mental impairments, with an overall severity of marked or severe, and we have documentation, including a mental status exam (MSE) per WAC 388-449-0040, that demonstrate social or cognitive factors, as described in WAC 388-448-0020 that interfere with working as follows:

Your age	Your education	Work history	Social limitation
Any age	Any level	Any	Markedly impaired in the ability to: <ul style="list-style-type: none"> <li>• Understand, remember, and persist in tasks by following simple instructions of one or two steps;</li> <li>• Perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances;</li> <li>• Perform routine tasks without undue supervision;</li> <li>• Adapt to changes in a routine work setting;</li> <li>• Make simple work-related decisions;</li> <li>• Be aware of normal hazards and take appropriate precautions;</li> <li>• Ask simple questions or request assistance;</li> <li>• Communicate and perform effectively in a work setting; or</li> <li>• Complete a normal workday and workweek without interruptions from psychologically based symptoms.</li> </ul>
Any age	Any level	Unskilled	Markedly impaired in the ability to: <ul style="list-style-type: none"> <li>• Understand, remember, and persist in tasks by following simple instructions of one or two steps;</li> <li>• Make simple work-related decisions;</li> <li>• Communicate and perform effectively in a work setting; or</li> <li>• Adapt to changes in a routine work setting.</li> </ul>
Fifty and older	Any level	Skilled	Markedly impaired in the ability to: <ul style="list-style-type: none"> <li>• Understand, remember, and persist in tasks by following complex instructions;</li> <li>• Set realistic goals and plan independently; or</li> <li>• Learn new tasks.</li> </ul>

(4) We approve disability when you have both mental and physical impairments, with an overall severity marked or severe, and we have documentation, including a mental status exam (MSE) per WAC 388-449-0040, that demonstrate social or cognitive factors, as described in WAC 388-448-0020 that interfere with working as follows:

Your age	Your education	Skill or Work Level	Social Restrictions	Past Work
Any age	Any level	Restricted to light work level or less	You are moderately impaired in your ability to communicate and perform effectively in a work setting	No transferable skills to work level
Fifty or older	Limited education or LEP	Restricted to light work level or less	Does not apply	No transferable skills to work level
Any age	Marginal education or LEP	Restricted to medium work level or less	You are moderately impaired in your ability to communicate and perform effectively in a work setting with limited public contact	No transferable skills to work level

(5) If you don't meet the criteria listed above, and there are jobs you can do, we will find you are able to perform other work and we will take the following actions:

- (a) Deny disability; and
- (b) Give you examples of jobs you can do despite your impairments.

**NEW SECTION**

**WAC 388-449-0150 When does my eligibility for aged, blind, or disabled (ABD) cash benefits end?** (1) The maximum period of eligibility for ABD cash is twenty-four months before we must review additional medical evidence. If you remain on ABD cash at the end of the twenty-four

month period, we determine your eligibility using current medical evidence.

(2) If your application for SSI is denied:

- (a) We review your eligibility for the ABD cash program;
- (b) We stop your benefits if you do not provide proof you have filed an appeal with SSA within sixty days of a SSI denial for not being disabled.

(3) We stop your benefits after the final decision on your application for SSI/SSA benefits or if you fail to follow through with any part of the SSI/SSA application or appeals process.

NEW SECTION

**WAC 388-449-0200 Am I eligible for cash assistance for aged, blind, or disabled (ABD) while waiting for supplemental security income (SSI)?** (1) You may receive ABD benefits while you are waiting to receive supplemental security income (SSI) benefits only when you:

(a) Have filed your SSI application with the Social Security Administration (SSA), follow through with SSA directions and requirements to process your application including keeping all interview and consultative examination appointments, and do not withdraw your application;

(b) Agree to assign the initial or reinstated SSI payment to us provided under WAC 388-449-0210;

(c) Are otherwise eligible according to WAC 388-400-0060; and

(d) Meet disability criteria listed in WAC 388-449-0001.

(2) To demonstrate your impairments are disabling despite medical treatment, you must participate in medical treatment for the impairments that keep you from working, unless you meet one of the following good cause reasons:

(a) The treatment provider has identified a risk that the treatment may cause further limitations or loss of a function or an organ and you are not willing to take that risk; or

(b) We determine that treatment is not available because you can't obtain it without cost to you.

(3) If you refuse or fail to participate in medical treatment without good cause, your benefits will end until you reapply and provide proof you are pursuing treatment as recommended.

NEW SECTION

**WAC 388-449-0210 What is interim assistance and how do I assign it to the department?** The ABD and SSI programs both provide cash assistance to meet your basic needs. You cannot receive this assistance for the same time period from both programs. When you are approved for or reinstated on SSI, you may receive a retroactive payment. When we made GA, DL, or ABD payments to you or on your behalf for the same time period, you must assign your interim assistance to repay us.

(1) "**Assign**" means that you sign a written authorization for the Social Security Administration (SSA) to send the SSI retroactive payment to us.

(2) "**Interim assistance**" means the monetary value of benefits we paid to you or on your behalf during:

(a) The time between your SSI application date and the month recurring SSI payments begin; or

(b) The period your SSI payments were suspended or terminated, and later reinstated.

NEW SECTION

**WAC 388-449-0220 How does alcohol or drug dependence affect my eligibility for the ABD cash and pregnant women assistance programs?** (1) You must complete a chemical dependency assessment when we have information that indicates you may be chemically dependent.

(2) You must accept an assessment referral and participate in drug or alcohol treatment if a certified chemical

dependency counselor indicates a need for treatment, unless you meet one of the following good cause reasons:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment.

(b) The outpatient chemical dependency treatment you need isn't available in the county you live in.

(c) You need inpatient chemical dependency treatment at a location that you can't reasonably access.

(3) If you refuse or fail to complete an assessment or treatment without good cause, your benefits will end until you provide proof you are pursuing an assessment or treatment as required.

NEW SECTION

**WAC 388-449-0225 Am I required to participate in vocational rehabilitation services if I receive ABD cash grant?** You must participate in vocational rehabilitation services through the division of vocational rehabilitation (DVR) if you are determined to be eligible for DVR services.

AMENDATORY SECTION (Amending WSR 10-15-069, filed 7/16/10, effective 8/16/10)

**WAC 388-450-0040 Native American benefits and payments.** This section applies to TANF/SFA, RCA, ~~((GA))~~ PWA, ABD cash, medical, and food assistance programs.

(1) The following types of income are not counted when a client's benefits are computed:

(a) Up to two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241;

(b) Income received from Indian trust funds or lands held in trust by the Secretary of the Interior for an Indian tribe or individual tribal member. Income includes:

(i) Interest; and

(ii) Investment income accrued while such funds are held in trust.

(c) Income received from Indian judgement funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. Income includes:

(i) Interest; and

(ii) Investment income accrued while such funds are held in trust.

(d) Up to two thousand dollars per individual per calendar year received from leases or other uses of individually owned trust or restricted lands, P.L. 103-66;

(e) Payments from an annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age; and

(f) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.

(2) Other Native American payments and benefits that are excluded by federal law are not counted when determining a client's benefits. Examples include but are not limited to:

(a) White Earth Reservation Land Settlement Act of 1985, P.L. 99-264, Section 16;

(b) Payments made from submarginal land held in trust for certain Indian tribes as designated by P.L. 94-114 and P.L. 94-540;

(c) Payments under the Seneca Nation Settlement Act, P.L. 101-503; and

(d) For medical assistance, receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell-fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations.

AMENDATORY SECTION (Amending WSR 06-17-017, filed 8/4/06, effective 9/4/06)

**WAC 388-450-0045 How do we count income from employment and training programs?** This section applies to cash assistance, Basic Food, and medical programs for families, children, and pregnant women.

(1) We treat payments issued under the Workforce Investment Act (WIA) as follows:

(a) For cash assistance and medical programs for families, children, and pregnant women, we exclude all payments.

(b) For Basic Food:

(i) We exclude OJT earnings for children who are eighteen years of age or younger and under parental control as described in WAC 388-408-0035.

(ii) We count OJT earnings as earned income for people who are:

(A) Age nineteen and older; or

(B) Age eighteen or younger and not under parental control.

(iii) We exclude all other payments.

(2) We exclude **all** payments issued under the National and Community Service Trust Act of 1993. This includes payments made through the AmeriCorps program.

(3) We treat payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, AmeriCorps Vista, university year for action, and urban crime prevention program as follows:

(a) For cash assistance and medical programs for families, children, and pregnant women, we exclude all payments.

(b) For Basic Food, we count most payments as earned income. We exclude the payments if you:

(i) Received Basic Food or cash assistance at the time you joined the Title I program; or

(ii) Were participating in the Title I program and received an income disregard at the time of conversion to the Food Stamp Act of 1977. We continue to exclude the payments even if you do not get Basic Food every month.

(4) We exclude **all** payments issued under Title II of the Domestic Volunteer Act of 1973. These include:

(a) Retired senior volunteer program (RSVP);

(b) Foster grandparents program; and

(c) Senior companion program.

(5) We count training allowances from vocational and rehabilitative programs as earned income when:

(a) The program is recognized by federal, state, or local governments; and

(b) The allowance is not a reimbursement.

(6) ~~((When GAU clients receive training allowances we allow:~~

~~(a) The earned income incentive and work expense deduction specified under WAC 388-450-0175, when applicable; and~~

~~(b) The actual cost of uniforms or special clothing required for the course as a deduction, if enrolled in a remedial education or vocational training course.~~

~~(7)) We exclude support service payments received by or made on behalf of WorkFirst participants.~~

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0095 Allocating income—General.** This section applies to TANF/SFA, RCA, ~~((and GA))~~ PWA, and ABD cash assistance programs.

(1) Allocation is the process of determining how much of a financially responsible person's income is considered available to meet the needs of legal dependents within or outside of an assistance unit.

(2) In-bound allocation means income possessed by a financially responsible person outside the assistance unit which is considered available to meet the needs of legal dependents in the assistance unit.

(3) Out-bound allocation means income possessed by a financially responsible assistance unit member which is set aside to meet the needs of a legal dependent outside the assistance unit.

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

**WAC 388-450-0100 Allocating income—Definitions.** The following definitions apply to the allocation rules for TANF/SFA, RCA, ~~((and GA))~~ PWA, and ABD cash programs:

(1) **"Dependent"** means a person who:

(a) Is or could be claimed for federal income tax purposes by the financially responsible person; or

(b) The financially responsible person is legally obligated to support.

(2) **"Financially responsible person"** means a parent, stepparent, adoptive parent, spouse or caretaker relative.

(3) A **"disqualified assistance unit member"** means a person who is:

(a) An unmarried pregnant or parenting minor under age eighteen who has not completed a high school education or general education development (GED) certification and is not participating in those educational activities which would lead to the attainment of a high school diploma or GED;

(b) An unmarried pregnant or parenting minor under age eighteen who is not living in a department-approved living situation;



(c) The financially responsible person who does not report to the department within five days of the date it becomes reasonably clear that the absence of a child will exceed ninety days;

(d) A person who has been convicted in federal or state court of having made a fraudulent statement or representation about their place of residence in order to receive assistance from two or more states at the same time as defined in WAC 388-446-0010; and

(e) A person who has been convicted of unlawfully receiving public assistance as defined under WAC 388-446-0005.

(4) **"Ineligible assistance unit member"** means an individual who is:

(a) Ineligible for cash assistance due to the citizenship/alien status requirements in WAC 388-424-0010;

(b) Ineligible to receive assistance under WAC 388-442-0010 for having been convicted after August 21, 1996, under federal or state law, of possession, use or distribution of a controlled substance;

(c) Ineligible to receive assistance under WAC 388-442-0010 for fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime;

(d) Ineligible to receive assistance under WAC 388-442-0010 for violating a condition of probation or parole which was imposed under a federal or state law as determined by an administrative body or court of competent jurisdiction;

(e) The spouse of a woman who receives cash benefits from the ~~((GA-S))~~ PWA program; or

(f) The adult parent of a minor parent's child.

#### NEW SECTION

**WAC 388-450-0112 Does the department allocate the income of an ABD cash client to legal dependents?** This section applies to the aged, blind, or disabled (ABD) cash assistance program.

(1) The income of an ABD cash client is reduced by the following:

(a) The ABD cash earned income disregard as specified in WAC 388-450-0177; and

(b) An amount not to exceed the department's standard of need for court or administratively ordered current or back support for legal dependents.

(2) When a ABD cash client in a medical institution, alcohol or drug treatment center, congregate care facility or adult family home has income, the income is countable to meet the client's needs after the income is reduced by the following:

(a) The payment standard amount for the nonapplying spouse and legal dependents living in the home; and

(b) The standard of assistance the client is eligible for while in an alternative care facility.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0115 (~~(Allocating)~~) Does the department allocate the income of a financially responsible person who is excluded from the assistance unit((e))?** This sec-

tion applies to TANF/SFA, RCA and ~~((GA-S))~~ PWA programs.

The income of a financially responsible person excluded from the assistance unit is available to meet the needs of the assistance unit after the income is reduced by the following:

(1) A ninety dollar work expense deduction from the financially responsible person(s) excluded from the assistance unit who is employed;

(2) The payment standard amount for the ineligible assistance unit members living in the home; and

(3) An amount not to exceed the department's standard of need for court or administratively ordered current or back support for legal dependents.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0120 (~~(Allocating)~~) Does the department allocate the income of financially responsible parents to a pregnant or parenting minor((e))?** This section applies to TANF/SFA, RCA and ~~((GA-S))~~ PWA programs.

The income of nonapplying financially responsible parent(s) of a pregnant or parenting minor is countable to meet the needs of the minor and the child(ren) after the income is reduced by the following:

(1) A ninety dollar work expense from the financially responsible parent's gross income from employment;

(2) An amount not to exceed the department's standard of need for:

(a) The financially responsible parent and dependent living in the home who are not applying for or receiving cash benefits and not a disqualified individual; and

(b) Court or administratively ordered current or back support for legal dependents.

(3) Spousal maintenance payments made to meet the needs of individuals not living in the home.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0130 (~~(Allocating)~~) Does the department allocate the income of a nonapplying spouse to a caretaker relative((e))?** This section applies to TANF/SFA, PWA, and RCA programs.

(1) The community income of the nonapplying spouse and applying spouse is combined. See WAC 388-450-0005 to determine what income is available as community income.

(2) Subtract a one person payment standard as specified in WAC 388-478-0020.

(3) The remainder is allocated to the caretaker relative.

#### NEW SECTION

**WAC 388-450-0137 Does the department allocate income of an ineligible spouse to an ABD cash client?** This section applies to the aged, blind, or disabled (ABD) cash assistance program.

(1) When an ABD cash client is married and lives with the nonapplying spouse, the following income is available to the client:

(a) The remainder of the client's wages, retirement benefits or separate property after reducing the income by:

(i) The ABD cash work incentive deduction, as specified in WAC 388-450-0177; and

(ii) An amount not to exceed the department's standard of need for court or administratively ordered current or back support for legal dependents.

(b) The remainder of the nonapplying spouse's wages, retirement benefits and separate property after reducing the income by:

(i) An amount not to exceed the department's standard of need for court or administratively ordered current or back support for legal dependents; and

(ii) The payment standard amount as specified under WAC 388-478-0033 which includes ineligible assistance unit members.

(c) One-half of all other community income, as provided in WAC 388-450-0005.

AMENDATORY SECTION (Amending WSR 11-16-056, filed 7/29/11, effective 8/29/11)

**WAC 388-450-0156 When am I exempt from deeming?** (1) If you meet any of the following conditions, you are **permanently** exempt from deeming and we do not count your sponsor's income or resources against your benefits:

(a) The Immigration and Nationality Act (INA) does not require you to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status with United States Citizenship and Immigration Services (USCIS):

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban/Haitian entrant; or
- (v) Special immigrant from Iraq or Afghanistan.

(b) You were sponsored by an organization or group as opposed to an individual;

(c) You do not meet the alien status requirements to be eligible for benefits under chapter 388-424 WAC;

(d) You have worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. We do not count a quarter of work toward this requirement if the person working received TANF, food stamps, Basic Food, SSI, CHIP, or nonemergency medicaid benefits. We count a quarter of work by the following people toward your forty qualifying quarters:

- (i) Yourself;
- (ii) Each of your parents for the time they worked before you turned eighteen years old (including the time they worked before you were born); and
- (iii) Your spouse if you are still married or your spouse is deceased.

(e) You become a United States (U.S.) Citizen;

(f) Your sponsor is dead; or

(g) If USCIS or a court decides that you, your child, or your parent was a victim of domestic violence from your sponsor and:

- (i) You no longer live with your sponsor; and
- (ii) Leaving your sponsor caused your need for benefits.

(2) You are exempt from the deeming process while you are in the same AU as your sponsor;

(3) For children and pregnancy medical programs, you are exempt from sponsor deeming requirements.

(4) For Basic Food, you are exempt from deeming while you are under age eighteen.

(5) For state family assistance, ~~((disability lifeline (DL)))~~ aged, blind, or disabled (ABD) cash, pregnant women assistance (PWA), state-funded Basic Food benefits, and state-funded medical assistance for legal immigrants you are exempt from the deeming process if:

(a) Your sponsor signed the affidavit of support more than five years ago;

(b) Your sponsor becomes permanently incapacitated; or

(c) You are a qualified alien according to WAC 388-424-0001 and you:

(i) Are on active duty with the U.S. armed forces or you are the spouse or unmarried dependent child of someone on active duty;

(ii) Are an honorably discharged veteran of the U.S. armed forces or you are the spouse or unmarried dependent child of an honorably discharged veteran;

(iii) Were employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Are a victim of domestic violence and you have petitioned for legal status under the Violence Against Women Act.

(6) If you, your child, or your parent was a victim of domestic violence, you are exempt from the deeming process for twelve months if:

(a) You no longer live with the person who committed the violence; and

(b) Leaving this person caused your need for benefits.

(7) If your AU has income at or below one hundred thirty percent of the federal poverty level (FPL), you are exempt from the deeming process for twelve months. This is called the "indigence exemption." You may choose to use this exemption or not to use this exemption in full knowledge of the possible risks involved. See risks in subsection (9) below. For this rule, we count the following as income to your AU:

(a) Earned and unearned income your AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services you receive from an individual or organization.

(8) If you use the indigence exemption, and are eligible for a federal program, we are required by law to give the United States attorney general the following information:

(a) The names of the sponsored people in your AU;

(b) That you are exempt from deeming due to your income;

(c) Your sponsor's name; and

(d) The effective date that your twelve-month exemption began.

(9) If you use the indigence exemption, and are eligible for a state program, we do not report to the United States attorney general.

(10) If you choose not to use the indigence exemption:

(a) You could be found ineligible for benefits for not verifying your sponsor's income and resources; or

(b) You will be subject to regular deeming rules under WAC 388-450-0160.

**AMENDATORY SECTION** (Amending WSR 04-03-051, filed 1/15/04, effective 2/15/04)

**WAC 388-450-0170 ((TANF/SFA earned income incentive and deduction)) Does the department provide an earned income deduction as an incentive for persons who receive TANF/SFA to work?** This section applies to TANF/SFA, RCA, PWA, and medical programs for children, pregnant women, and families except as specified under WAC 388-450-0210.

(1) If a client works, the department only counts some of the income to determine eligibility and benefit level.

(2) We only count fifty percent of your monthly gross earned income. We do this to encourage you to work.

(3) If you pay for care before we approve your benefits, we subtract the amount you pay for those dependent children or incapacitated adults who get cash assistance with you.

(a) The amount we subtract is:

(i) Prorated according to the date you are eligible for benefits;

(ii) Cannot be more than your gross monthly income; and

(iii) Cannot exceed the following for each dependent child or incapacitated adult:

Dependent Care Maximum Deductions

Hours Worked Per Month	Child Two Years of Age & Under	Child Over Two Years of Age or Incapacitated Adult
0 - 40	\$ 50.00	\$ 43.75
41 - 80	\$ 100.00	\$ 87.50
81 - 120	\$ 150.00	\$ 131.25
121 or More	\$ 200.00	\$ 175.00

(b) In order to get this deduction:

(i) The person providing the care must be someone other than the parent or stepparent of the child or incapacitated adult; and

(ii) You must verify the expense.

**NEW SECTION**

**WAC 388-450-0177 Does the department offer an income deduction for the ABD cash program as an incentive for clients to work?** The department gives a deduction to people who receive income from work while receiving aged, blind, or disabled cash assistance. The deduction applies to aged, blind, or disabled cash benefits only. We allow the following income deduction when we determine the amount of your benefits:

We only count fifty percent of your monthly gross earned income. We do this to encourage you to work.

**AMENDATORY SECTION** (Amending WSR 06-10-034, filed 4/27/06, effective 6/1/06)

**WAC 388-460-0020 Who is a protective payee?** (1) A protective payee is a person or an employee of an agency who manages client cash benefits to provide for basic needs - housing, utilities, clothing, child care, and food. They may also provide services such as training clients how to manage money.

(2) Clients are assigned to protective payees for the following reasons:

(a) Emergency or temporary situations where a child is left without a caretaker (TANF/SFA) per WAC 388-460-0030;

(b) Mismanagement of money (TANF/SFA, ((GA)) PWA, ABD cash, or WCCC) per WAC 388-460-0035; or

(c) Pregnant or parenting minors per WAC 388-460-0040.

**AMENDATORY SECTION** (Amending WSR 02-14-083, filed 6/28/02, effective 7/1/02)

**WAC 388-460-0040 When ((is)) does the department assign a protective payee assigned to TANF/SFA or PWA pregnant or parenting minors?** Pregnant or parenting minors who are not emancipated under court order must be assigned to protective payees if the clients are:

(1) Head of a household;

(2) Under age eighteen;

(3) Unmarried; and

(4) Pregnant or have a dependent child.

**AMENDATORY SECTION** (Amending WSR 03-20-060, filed 9/26/03, effective 10/27/03)

**WAC 388-468-0005 Residency.** Subsections (1) through (4) applies to cash, the Basic Food program, and medical programs.

(1) A resident is a person who:

(a) Currently lives in Washington and intends to continue living here permanently or for an indefinite period of time; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(2) A person does not need to live in the state for a specific period of time to be considered a resident.

(3) A child under age eighteen is a resident of the state where the child's primary custodian lives.

(4) With the exception of subsection (5) of this section, a client can temporarily be out of the state for more than one month. If so, the client must supply the department with adequate information to demonstrate the intent to continue to reside in the state of Washington.

(5) Basic Food program assistance units who are not categorically eligible do not meet residency requirements if they stay out of the state more than one calendar month.

(6) A client may not receive comparable benefits from another state for the cash and Basic Food programs.

(7) A former resident of the state can apply for the ((GA-)) ABD cash program while living in another state if:

(a) The person:

- (i) Plans to return to this state;
- (ii) Intends to maintain a residence in this state; and
- (iii) Lives in the United States at the time of the application.

(b) In addition to the conditions in subsection (7)(a)(i)(ii), and (iii) being met, the absence must be:

- (i) Enforced and beyond the person's control; or
- (ii) Essential to the person's welfare and is due to physical or social needs.

(c) See WAC 388-406-0035, 388-406-0040, and 388-406-0045 for time limits on processing applications.

(8) Residency is not a requirement for detoxification services.

(9) A person is not a resident when the person enters Washington state only for medical care. This person is not eligible for any medical program. The only exception is described in subsection (10) of this section.

(10) It is not necessary for a person moving from another state directly to a nursing facility in Washington state to establish residency before entering the facility. The person is considered a resident if they intend to remain permanently or for an indefinite period unless placed in the nursing facility by another state.

(11) For purposes of medical programs, a client's residence is the state:

- (a) Paying a state Supplemental Security Income (SSI) payment; or
- (b) Paying federal payments for foster or adoption assistance; or
- (c) Where the noninstitutionalized individual lives when medicaid eligibility is based on blindness or disability; or
- (d) Where the parent or legal guardian, if appointed, for an institutionalized:

- (i) Minor child; or
- (ii) Client twenty-one years of age or older, who became incapable of determining residential intent before reaching age twenty-one.

(e) Where a client is residing if the person becomes incapable of determining residential intent after reaching twenty-one years of age; or

- (f) Making a placement in an out-of-state institution; or
- (g) For any other institutionalized individual, the state of residence is the state where the individual is living with the intent to remain there permanently or for an indefinite period.

(12) In a dispute between states as to which is a person's state of residence, the state of residence is the state in which the person is physically located.

AMENDATORY SECTION (Amending WSR 05-19-059, filed 9/16/05, effective 10/17/05)

**WAC 388-473-0010 What are ongoing additional requirements and how do I qualify?** "Ongoing additional requirement" means a need beyond essential food, clothing, and shelter needs and is necessary to help you continue living independently.

(1) We may authorize ongoing additional requirement benefits if you are active in one of the following programs:

- (a) Temporary assistance for needy families (TANF), or tribal TANF;

- (b) State family assistance (SFA);
- (c) Pregnant women assistance (PWA);
- (d) Refugee cash;
- ~~((d) General assistance cash))~~ (e) Aged, blind, or disabled (ABD); or

~~((e))~~ (f) Supplemental Security Income (SSI).

(2) You apply for an ongoing additional requirement benefit by notifying staff who maintain your cash or medical assistance that you need additional help to live independently.

(3) We authorize ongoing additional requirement benefits only when we determine the item is essential to you. We make the decision based on proof you provide of:

- (a) The circumstances that create the need; and
- (b) How the need affects your health, safety and ability to continue to live independently.

(4) We authorize ongoing additional requirement benefits by increasing your monthly cash assistance benefit.

(5) We use the following review cycle table to decide when to review your need for the additional benefit(s).

REVIEW CYCLE	
Program	Frequency (Months)
TANF/RCA	6 Months
<del>((GA))</del> <u>ABD</u>	12 Months
SSI	24 Months
All	Any time need or circumstances are expected to change

(6) Monthly payment standards for ongoing additional requirements are described under WAC 388-478-0050.

**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.

AMENDATORY SECTION (Amending WSR 02-11-033, filed 5/7/02, effective 6/7/02)

**WAC 388-474-0010 How does being a Supplemental Security Income (SSI) client affect your cash assistance eligibility?** (1) If you are married to an SSI recipient but do not get SSI in your own right, you are called an "ineligible spouse."

(2) If you are an ineligible spouse you cannot get the SSI state supplement when you are:

- (a) The caretaker relative of a child who receives TANF or SFA; and
- (b) Required to be included in the TANF or SFA assistance unit with the child (see WAC 388-408-0015); or
- (c) Receiving refugee assistance.

(3) If you are an ineligible spouse and get an SSI state supplement (WAC 388-474-0012), you cannot get ~~((general assistance (GA)))~~ aged, blind, or disabled (ABD) cash assistance.

AMENDATORY SECTION (Amending WSR 02-11-033, filed 5/7/02, effective 6/7/02)

**WAC 388-474-0020 What can ~~((a general assistance unemployable (GA-U)))~~ an aged, blind, or disabled (ABD)**

**cash assistance client expect when Supplemental Security Income (SSI) benefits begin?** You ~~((can only get))~~ may only receive assistance to meet your basic needs from one government source at a time (WAC ~~((388-448-0210))~~ 388-449-0210). If you are ~~((a GA-U))~~ an ABD cash client who begins ~~((setting))~~ getting SSI, you should know that:

(1) If you got advance, emergency or retroactive SSI cash assistance for any period where you ~~((got GA-U))~~ received general assistance (GA), disability lifeline (DL), or aged, blind, or disabled (ABD) cash assistance, you must repay the department the amount of ~~((GA-U))~~ cash assistance paid to you for the matching time period.

(2) When you apply for ~~((GA-U))~~ ABD cash you must sign DSHS 18-235(X), interim assistance reimbursement agreement (IARA) to ~~((get GA-U))~~ receive ABD cash assistance.

(3) You cannot use your ~~((GA-U))~~ ABD money to replace money deducted from your SSI check to repay an SSI overpayment.

AMENDATORY SECTION (Amending WSR 10-17-101, filed 8/17/10, effective 9/17/10)

**WAC 388-476-0005 Social Security number requirements.** (1) With certain exceptions, each person who applies for or receives cash, medical or food assistance benefits must provide to the department a Social Security number (SSN), or numbers if more than one has been issued. For SSN requirements for immigrants, see WAC 388-424-0009.

(2) If the person is unable to provide the SSN, either because it is not known or has not been issued, the person must:

- (a) Apply for the SSN;
- (b) Provide proof that the SSN has been applied for; and
- (c) Provide the SSN when it is received.

(3) Assistance will not be delayed, denied or terminated pending the issuance of an SSN by the Social Security Administration. However, a person who does not comply with these requirements is not eligible for assistance.

(4) For cash, medical, and food assistance benefits, a person cannot be disqualified from receiving benefits for refusing to apply for or supply an SSN based on religious grounds.

(5) For food assistance programs:

(a) A person can receive benefits for the month of application and the following month if the person attempted to apply for the SSN and made every effort to provide the needed information to the Social Security Administration.

(b) If a person is unable to provide proof of application for a SSN for a newborn:

(i) The newborn can receive Basic Food with the household while effort is being made to get the SSN.

(ii) For the newborn to continue receiving Basic Food benefits; the household must provide proof of application for SSN or the SSN for the newborn, at the next recertification, or within six months following the month the baby is born, whichever is later.

(6) For medical programs, a newborn as described in WAC 388-505-0210(1) is eligible for categorically needy (CN) medical without meeting the SSN requirement until the baby's first birthday.

(7) There is no SSN requirement for the following programs:

- (a) The consolidated emergency assistance program;
- (b) The refugee cash and medical assistance program;
- (c) The alien emergency medical program; and
- (d) ~~((The state-funded pregnant woman program; and~~
- ~~((e)))~~ Detoxification services.

NEW SECTION

**WAC 388-478-0027 What are the payment standards for pregnant women assistance (PWA)?** (1) The payment standards for PWA cash assistance units with obligations to pay shelter costs are:

Assistance Unit Size	Payment Standard
1	\$197

(2) The payment standards for PWA cash assistance units with shelter provided at no cost are:

Assistance Unit Size	Payment Standard
1	\$120

NEW SECTION

**WAC 388-478-0033 What are the payment standards for aged, blind, or disabled (ABD) cash assistance?**

(1) The payment standards for aged, blind, or disabled (ABD) cash assistance program assistance units with obligations to pay shelter costs are:

Assistance Unit Size	Payment standard
1	\$197
2	\$248

(2) The payment standards for aged, blind, or disabled (ABD) cash assistance units with shelter provided at no cost are:

Assistance Unit Size	Payment Standard
1	\$120
2	\$152

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-486-0005 Unmarried pregnant or parent-ing minors—Required living arrangement.** (1) This rule affects only the minor's eligibility for cash assistance. It does not affect the eligibility of the minor parent's child for a cash grant.

(2) The following definitions apply to terms used in this section:

(a) "Unmarried" means a person who have never been married or whose marriage has been annulled. It does not include a person who has been divorced or widowed.

(b) "Minor" means a person younger than eighteen years of age.

(c) "Legal guardian" means a court-appointed legal guardian or court-appointed permanent custodian.

(d) "Relative" is a person who related to the pregnant or parenting minor as defined under RCW 74.15.020(4).

(3) An unmarried pregnant or parenting minor is not eligible for TANF, SFA or ((GA-S)) PWA unless the person:

(a) Has been emancipated by a court; or

(b) Lives in a home approved by the department and has a protective payee.

(4) The home of a minor's parent, legal guardian, or adult relative may be approved unless:

(a) The minor has no living parent, legal guardian, or adult relative that can be located or those persons do not want the minor to live with them;

(b) The minor or the minor's child is being or has been seriously harmed either physically, emotionally or sexually in the home of the parent, legal guardian, or adult relative;

(c) Substantial evidence exists of an act or failure to act by the parent, legal guardian, or adult relative that presents imminent or serious harm to the minor or the minor's child if they lived there; or

(d) The department determines that it is in the best interest of the minor or the minor's child to waive the requirement of living in the home of a parent, legal guardian, or adult relative.

(5) If the home of a minor's parent, legal guardian, or adult relative is not available or suitable, one of the following alternatives may be approved:

(a) A facility or home licensed under chapter 74.15 RCW that provides a supportive and supervised living arrangement requiring residents to learn parenting skills;

(b) A maternity home;

(c) Other adult-supervised living arrangement; or

(d) The minor's current or proposed living arrangement, if the department determines it is appropriate.

(6) A home that includes the other natural parent of the minor's child or unborn child is never approved if:

(a) The minor is under age sixteen; and

(b) The other parent is eighteen or older and meets the age criteria for rape of a child as set forth in RCW 9A.44.073, 9A.44.076, and 9A.44.079.

(7) The income of a minor parent found ineligible under this section is treated according to WAC 388-450-0100 and 388-450-0115 when determining the eligibility and benefit level of the minor parent's child.

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

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 388-400-0025 Who is eligible for disability lifeline benefits?

WAC 388-404-0010 Age requirement for GA-U and ADATSA.

WAC 388-408-0010 Who is in my assistance unit for general assistance?

WAC 388-418-0025 Effect of changes on medical program eligibility.

WAC 388-424-0016 Citizenship and alien status—Immigrant eligibility restrictions for state medical benefits.

WAC 388-448-0001 What are the incapacity requirements for general assistance?

WAC 388-448-0010 How do we decide if you are incapacitated?

WAC 388-448-0020 Which health professionals can I go to for medical evidence?

WAC 388-448-0030 What medical evidence do I need to provide?

WAC 388-448-0035 How we assign severity ratings to your impairment.

WAC 388-448-0040 PEP step I—Review of medical evidence required for eligibility determination.

WAC 388-448-0050 PEP step II—How we determine the severity of mental impairments.

WAC 388-448-0060 PEP step III—How we determine the severity of physical impairments.

WAC 388-448-0070 PEP step IV—How we determine the severity of multiple impairments.

WAC 388-448-0080 PEP step V—How we determine your ability to function in a work environment if you have a mental impairment.

WAC 388-448-0090 PEP step V—How we determine your ability to function in a work environment if you have a physical impairment.

WAC 388-448-0100 PEP step VI—How we evaluate capacity to perform relevant past work.

WAC 388-448-0110 PEP step VII—How we evaluate your capacity to perform other work.

WAC 388-448-0120 How we decide how long you are incapacitated.

WAC 388-448-0130 Treatment and referral requirements.

WAC 388-448-0140 When does a person have good cause for refusing or failing to participate in medi-

		Maximum Earned Income Level	Number of Family Members	Maximum Monthly Earned Income Level
WAC 388-448-0150	cal treatment or referrals to other agencies? Penalty for refusing or failure to participate in medical treatment or other agency referrals.	\$610	6	\$1,472
WAC 388-448-0160	When do my disability life-line benefits end?	770	7	1,700
WAC 388-448-0180	How do we redetermine your eligibility when we decide you are eligible for general assistance expedited medic-aid (GAX)?	955	8	1,882
		1,124	9	2,066
		1,295	10 or more	2,246

**WSR 11-23-008**

**PROPOSED RULES**

**OLYMPIC COLLEGE**

[Filed November 4, 2011, 1:06 p.m.]

WAC 388-448-0200	Can I get general assistance while waiting for Supplemental Security Income (SSI)?
WAC 388-448-0210	What is interim assistance and how do I assign it to you?
WAC 388-448-0220	How does alcohol or drug dependence affect my eligibility for disability lifeline?
WAC 388-448-0250	Are there limits on the number of months I may receive disability lifeline benefits?
WAC 388-450-0110	Allocating the income of a GA-U client to legal dependents.
WAC 388-450-0135	Allocating income of an ineligible spouse to a GA-U client.
WAC 388-450-0175	Does the department offer an income deduction for the general assistance program as an incentive for clients to work?
WAC 388-462-0011	Post adoption cash benefit.

Continuance of WSR 11-21-019.  
Preproposal statement of inquiry was filed as WSR 11-17-001.

Title of Rule and Other Identifying Information: Distribution of printed material on campus, WAC 132C-10-010.

Hearing Location(s): Olympic College, Humanities and Student Services Building, Room 218, 1600 Chester Avenue, Bremerton, WA 98337, on January 18, 2012, at 9:30 a.m.

Date of Intended Adoption: January 18, 2012.

Submit Written Comments to: Thomas Oliver, Olympic College, CSC 210, 1600 Chester Avenue, Bremerton, WA 98337, e-mail [toliver@olympic.edu](mailto:toliver@olympic.edu), fax (360) 475-7505, by January 6, 2012.

Assistance for Persons with Disabilities: Contact access services by January 6, 2012, TTY (360) 475-7543 or (360) 475-7540.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The college is therefore moving to rescind WAC 132C-10-010. The meeting time, date and location have been changed.

Reasons Supporting Proposal: Olympic College wishes to avoid confusion on this issue.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: Chapter 28B.50 RCW.

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

Name of Proponent: Joan Hanten, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Hanten, CSC5, 1600 Chester Avenue, Bremerton, WA 98337, (360) 475-7121.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will be no impact on any entity other than Olympic College.

A cost-benefit analysis is not required under RCW 34.05.328. There is no significant economic impact.

November 4, 2011

Thomas Oliver

Rules Coordinator

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-478-0030	Payment standards for disability lifeline and ADATSA.
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**AMENDATORY SECTION** (Amending WSR 11-16-029, filed 7/27/11, effective 8/27/11)

**WAC 388-478-0035 What are the maximum earned income limits for TANF, SFA, PWA and RCA((?))?** To be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), ((?)) refugee cash assistance (RCA), or a pregnant women assistance (PWA), a family's gross earned income must be below the following levels:

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 132C-10-010 Distribution of printed material on campus.

**WSR 11-23-012**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Aging and Disability Services Administration)  
 [Filed November 7, 2011, 8:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-144; and proposal is exempt under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on December 27, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than December 28, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on December 27, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by December 13, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [jennisha.johnson@dshs.wa.gov](mailto:jennisha.johnson@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Effective July 1, 2011, the department increased the daily medicaid payment

rates for clients assessed using the CARE tool and who reside in adult family homes or who reside in boarding homes contracted to provide AL, ARC, and EARC services. Under ESSB [ESHB] 1087, the 2011/13 biennial operating budget, 2011 1st sp. sess., adult family home rates are enhanced to compensate for the licensing fee increase. Boarding home rates are restored to March 31, 2011, levels. However, because new training requirements are delayed pursuant to [to] ESHB 1548, 2011 1st sp. sess., the previously given rate enhancement for training is removed from the boarding home rate until such time that the new training requirements are reinstated.

Statutory Authority for Adoption: New chapter 74.34 RCW based on chapter 7, Laws of 2011 1st sp. sess.

Statute Being Implemented: Chapter 74.34 RCW.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ken Callaghan, 4500 10th Avenue S.E., Lacey, WA, (360) 725-2499.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Pursuant to RCW 19.85.025(3), a small business economic impact statement is not required because this rule adjusts rates according to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. Proposal is exempt under RCW 34.05.310(4).

November 3, 2011  
 Katherine I. Vasquez  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 10-21-035, filed 10/12/10, effective 10/29/10)

**WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.** For contracted AFH and boarding homes contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$(( <del>66.65</del> )) <u>66.52</u>	\$(( <del>72.07</del> )) <u>71.94</u>	\$(( <del>47.19</del> )) <u>47.06</u>	\$(( <del>47.19</del> )) <u>47.06</u>	\$(( <del>46.39</del> )) <u>46.61</u>
A Med	\$(( <del>72.15</del> )) <u>72.02</u>	\$(( <del>77.57</del> )) <u>77.44</u>	\$(( <del>53.52</del> )) <u>53.39</u>	\$(( <del>53.52</del> )) <u>53.39</u>	\$(( <del>52.64</del> )) <u>52.86</u>
A High	\$(( <del>80.94</del> )) <u>80.81</u>	\$(( <del>86.36</del> )) <u>86.23</u>	\$(( <del>58.76</del> )) <u>58.63</u>	\$(( <del>58.76</del> )) <u>58.63</u>	\$(( <del>58.90</del> )) <u>59.12</u>



B Low	\$((66.65)) <u>66.52</u>	\$((72.07)) <u>71.94</u>	\$((47.19)) <u>47.06</u>	\$((47.19)) <u>47.06</u>	\$((46.62)) <u>46.84</u>
B Med	\$((74.35)) <u>74.22</u>	\$((79.77)) <u>79.64</u>	\$((59.85)) <u>59.72</u>	\$((59.85)) <u>59.72</u>	\$((59.19)) <u>59.41</u>
B Med-High	\$((84.18)) <u>84.05</u>	\$((89.60)) <u>89.47</u>	\$((63.63)) <u>63.50</u>	\$((63.63)) <u>63.50</u>	\$((63.42)) <u>63.64</u>
B High	\$((88.64)) <u>88.48</u>	\$((94.03)) <u>93.90</u>	\$((72.71)) <u>72.58</u>	\$((72.71)) <u>72.58</u>	\$((72.51)) <u>72.73</u>
C Low	\$((72.15)) <u>72.02</u>	\$((77.57)) <u>77.44</u>	\$((53.52)) <u>53.39</u>	\$((53.52)) <u>53.39</u>	\$((52.64)) <u>52.86</u>
C Med	\$((80.94)) <u>80.81</u>	\$((86.36)) <u>86.23</u>	\$((67.13)) <u>67.00</u>	\$((67.13)) <u>67.00</u>	\$((67.22)) <u>67.44</u>
C Med-High	\$((100.71)) <u>100.58</u>	\$((106.13)) <u>106.00</u>	\$((89.42)) <u>89.29</u>	\$((89.42)) <u>89.29</u>	\$((88.06)) <u>88.28</u>
C High	\$((101.71)) <u>101.58</u>	\$((107.13)) <u>107.00</u>	\$((90.27)) <u>90.14</u>	\$((90.27)) <u>90.14</u>	\$((89.29)) <u>89.51</u>
D Low	\$((74.35)) <u>74.22</u>	\$((79.77)) <u>79.64</u>	\$((72.27)) <u>72.14</u>	\$((72.27)) <u>72.14</u>	\$((68.52)) <u>68.74</u>
D Med	\$((82.59)) <u>82.46</u>	\$((88.01)) <u>87.88</u>	\$((83.70)) <u>83.57</u>	\$((83.70)) <u>83.57</u>	\$((83.87)) <u>84.09</u>
D Med-High	\$((106.74)) <u>106.61</u>	\$((112.16)) <u>112.03</u>	\$((106.39)) <u>106.26</u>	\$((106.39)) <u>106.26</u>	\$((100.92)) <u>101.14</u>
D High	\$((115.01)) <u>114.88</u>	\$((120.43)) <u>120.30</u>	\$((115.01)) <u>114.88</u>	\$((115.01)) <u>114.88</u>	\$((114.90)) <u>115.12</u>
E Med	\$((138.95)) <u>138.82</u>	\$((144.37)) <u>144.24</u>	\$((138.95)) <u>138.82</u>	\$((138.95)) <u>138.82</u>	\$((138.84)) <u>139.06</u>
E High	\$((162.89)) <u>162.76</u>	\$((168.31)) <u>168.18</u>	\$((162.89)) <u>162.76</u>	\$((162.89)) <u>162.76</u>	\$((162.79)) <u>163.01</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE  
METROPOLITAN COUNTIES\*

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$((61.15)) <u>61.02</u>	\$((66.07)) <u>65.94</u>	\$((47.19)) <u>47.06</u>	\$((47.19)) <u>47.06</u>	\$((46.39)) <u>46.61</u>
A Med	\$((64.46)) <u>64.33</u>	\$((69.38)) <u>69.25</u>	\$((51.41)) <u>51.28</u>	\$((51.41)) <u>51.28</u>	\$((50.55)) <u>50.77</u>
A High	\$((78.74)) <u>78.61</u>	\$((83.66)) <u>83.53</u>	\$((56.04)) <u>55.91</u>	\$((56.04)) <u>55.91</u>	\$((55.76)) <u>55.98</u>
B Low	\$((61.15)) <u>61.02</u>	\$((66.07)) <u>65.94</u>	\$((47.19)) <u>47.06</u>	\$((47.19)) <u>47.06</u>	\$((46.62)) <u>46.84</u>
B Med	\$((69.94)) <u>69.81</u>	\$((74.86)) <u>74.73</u>	\$((56.69)) <u>56.56</u>	\$((56.69)) <u>56.56</u>	\$((56.04)) <u>56.26</u>
B Med-High	\$((79.20)) <u>79.07</u>	\$((84.12)) <u>83.99</u>	\$((60.27)) <u>60.14</u>	\$((60.27)) <u>60.14</u>	\$((60.10)) <u>60.32</u>
B High	\$((86.42)) <u>86.29</u>	\$((91.34)) <u>91.21</u>	\$((70.66)) <u>70.53</u>	\$((70.66)) <u>70.53</u>	\$((70.46)) <u>70.68</u>

C Low	\$((64.46)) <u>64.33</u>	\$((69.38)) <u>69.25</u>	\$((51.62)) <u>51.49</u>	\$((51.62)) <u>51.49</u>	\$((50.93)) <u>51.15</u>
C Med	\$((78.74)) <u>78.61</u>	\$((83.66)) <u>83.53</u>	\$((66.27)) <u>66.14</u>	\$((66.27)) <u>66.14</u>	\$((65.58)) <u>65.80</u>
C Med-High	\$((97.40)) <u>97.27</u>	\$((102.32)) <u>102.19</u>	\$((83.09)) <u>82.96</u>	\$((83.09)) <u>82.96</u>	\$((81.82)) <u>82.04</u>
C High	\$((98.37)) <u>98.24</u>	\$((103.29)) <u>103.16</u>	\$((88.37)) <u>88.24</u>	\$((88.37)) <u>88.24</u>	\$((86.81)) <u>87.03</u>
D Low	\$((69.94)) <u>69.81</u>	\$((74.86)) <u>74.73</u>	\$((71.28)) <u>71.15</u>	\$((71.28)) <u>71.15</u>	\$((67.01)) <u>67.23</u>
D Med	\$((80.34)) <u>80.21</u>	\$((85.26)) <u>85.13</u>	\$((82.03)) <u>81.90</u>	\$((82.03)) <u>81.90</u>	\$((81.61)) <u>81.83</u>
D Med-High	\$((103.24)) <u>103.11</u>	\$((108.16)) <u>108.03</u>	\$((103.76)) <u>103.63</u>	\$((103.76)) <u>103.63</u>	\$((97.84)) <u>98.06</u>
D High	\$((111.85)) <u>111.72</u>	\$((116.77)) <u>116.64</u>	\$((111.85)) <u>111.72</u>	\$((111.85)) <u>111.72</u>	\$((111.16)) <u>111.38</u>
E Med	\$((134.64)) <u>134.51</u>	\$((139.56)) <u>139.43</u>	\$((134.64)) <u>134.51</u>	\$((134.64)) <u>134.51</u>	\$((133.95)) <u>134.17</u>
E High	\$((157.43)) <u>157.30</u>	\$((162.35)) <u>162.22</u>	\$((157.43)) <u>157.30</u>	\$((157.43)) <u>157.30</u>	\$((156.74)) <u>156.96</u>

\*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

CARE CLASSIFICATION	COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**				
	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	\$((60.07)) <u>59.94</u>	\$((65.31)) <u>65.18</u>	\$((47.19)) <u>47.06</u>	\$((47.19)) <u>47.06</u>	\$((46.39)) <u>46.61</u>
A Med	\$((64.46)) <u>64.33</u>	\$((69.70)) <u>69.57</u>	\$((50.36)) <u>50.23</u>	\$((50.36)) <u>50.23</u>	\$((49.52)) <u>49.74</u>
A High	\$((78.74)) <u>78.61</u>	\$((83.98)) <u>83.85</u>	\$((55.14)) <u>55.01</u>	\$((55.14)) <u>55.01</u>	\$((54.73)) <u>54.95</u>
B Low	\$((60.07)) <u>59.94</u>	\$((65.31)) <u>65.18</u>	\$((47.19)) <u>47.06</u>	\$((47.19)) <u>47.06</u>	\$((46.62)) <u>46.84</u>
B Med	\$((69.94)) <u>69.81</u>	\$((75.18)) <u>75.05</u>	\$((55.64)) <u>55.51</u>	\$((55.64)) <u>55.51</u>	\$((55.00)) <u>55.22</u>
B Med-High	\$((79.20)) <u>79.07</u>	\$((84.44)) <u>84.31</u>	\$((59.14)) <u>59.01</u>	\$((59.14)) <u>59.01</u>	\$((58.92)) <u>59.14</u>
B High	\$((86.42)) <u>86.29</u>	\$((91.66)) <u>91.53</u>	\$((66.84)) <u>66.71</u>	\$((66.84)) <u>66.71</u>	\$((66.64)) <u>66.86</u>
C Low	\$((64.46)) <u>64.33</u>	\$((69.70)) <u>69.57</u>	\$((50.36)) <u>50.23</u>	\$((50.36)) <u>50.23</u>	\$((49.52)) <u>49.74</u>
C Med	\$((78.74)) <u>78.61</u>	\$((83.98)) <u>83.85</u>	\$((62.65)) <u>62.52</u>	\$((62.65)) <u>62.52</u>	\$((63.07)) <u>63.29</u>
C Med-High	\$((97.40)) <u>97.27</u>	\$((102.64)) <u>102.51</u>	\$((79.92)) <u>79.79</u>	\$((79.92)) <u>79.79</u>	\$((78.70)) <u>78.92</u>

C High	\$((98.37)) <u>98.24</u>	\$((103.61)) <u>103.48</u>	\$((83.54)) <u>83.41</u>	\$((83.54)) <u>83.41</u>	\$((82.10)) <u>82.32</u>
D Low	\$((69.94)) <u>69.81</u>	\$((75.18)) <u>75.05</u>	\$((67.39)) <u>67.26</u>	\$((67.39)) <u>67.26</u>	\$((63.37)) <u>63.59</u>
D Med	\$((80.34)) <u>80.21</u>	\$((85.58)) <u>85.45</u>	\$((77.55)) <u>77.42</u>	\$((77.55)) <u>77.42</u>	\$((77.17)) <u>77.39</u>
D Med-High	\$((103.24)) <u>103.11</u>	\$((108.48)) <u>108.35</u>	\$((98.08)) <u>97.95</u>	\$((98.08)) <u>97.95</u>	\$((92.52)) <u>92.74</u>
D High	\$((105.73)) <u>105.60</u>	\$((110.97)) <u>110.84</u>	\$((105.73)) <u>105.60</u>	\$((105.73)) <u>105.60</u>	\$((105.10)) <u>105.32</u>
E Med	\$((127.27)) <u>127.14</u>	\$((132.51)) <u>132.38</u>	\$((127.27)) <u>127.14</u>	\$((127.27)) <u>127.14</u>	\$((126.64)) <u>126.86</u>
E High	\$((148.81)) <u>148.68</u>	\$((154.05)) <u>153.92</u>	\$((148.81)) <u>148.68</u>	\$((148.81)) <u>148.68</u>	\$((148.19)) <u>148.41</u>

\*\* Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

**WSR 11-23-069**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed November 14, 2011, 4:33 p.m.]

Continuance of WSR 11-20-090.

Preproposal statement of inquiry was filed as WSR 11-05-041.

Title of Rule and Other Identifying Information: Revises WAC 181-85-033 to provide continuing education credits for trained educators to score external standardized teacher assessments. Continued until public hearing January 2012.

Hearing Location(s): Phoenix Inn, 415 Capitol Way North, Olympia, WA 98501, on January 19, 2012, at 8:30 a.m.

Date of Intended Adoption: January 19, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by January 5, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by January 5, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Awards credit to educators scoring the ProTeach Portfolio.

Reasons Supporting Proposal: Supports external assessment process.

Statutory Authority for Adoption: RCW 28A.410.210.

Statute Being Implemented: RCW 28A.410.270.

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

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

November 14, 2011

David Brenna  
Senior Policy Analyst

**WSR 11-23-071**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF EARLY LEARNING**  
(By the Code Reviser's Office)

[Filed November 15, 2011, 10:12 a.m.]

WAC 170-296A-1350, 170-296A-1500, 170-296A-1550, 170-296A-1575, 170-296A-3225, 170-296A-3350, 170-296A-3400, 170-296A-3760, 170-296A-3975, 170-296A-4975, 170-296A-5650, 170-296A-5800, 170-296A-5850, 170-296A-5875, 170-296A-5900, 170-296A-6725, 170-296A-7050, and 170-296A-8200, proposed by the department of early learning in WSR 11-09-081 appearing in issue 11-10 of the State Register, which was distributed on May 18, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted

within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 11-23-105**  
**PROPOSED RULES**  
**FOREST PRACTICES BOARD**

[Filed November 18, 2011, 11:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-096.

Title of Rule and Other Identifying Information: Critical habitats (state) of threatened and endangered species, WAC 222-16-080.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, (360) 902-1400, on January 3, 2012, at 6 p.m.; and at the Department of Natural Resources, 713 East Bowers, Ellensburg, (509) 925-8510, on January 5, 2012, at 6 p.m.

Date of Intended Adoption: February 14, 2012.

Submit Written Comments to: Patricia Anderson, DNR Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@dnr.wa.gov, fax (360) 902-1428, by January 6, 2012.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by December 20, 2011, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal will amend the forest practices board (board) rule WAC 222-16-080 Critical habitats (state) of threatened and endangered species to be consistent with other state laws. This rule making will reflect the changes made to WAC 232-12-014, 232-12-011, and 232-12-292 by the Washington fish and wildlife commission (commission) by removing the bald eagle and the peregrine falcon from the board's critical habitats (state) list and removing the option to use a bald eagle site management plan.

The proposal also updates the common and scientific names for the Western pond turtle on the board's critical habitats (state) list.

Reasons Supporting Proposal: The commission has removed the bald eagle from the state's threatened and endangered species lists and has amended its bald eagle protection rule to require bald eagle site management plans only when the bald eagle is listed under state law as threatened or endangered. The commission has also removed the peregrine falcon from the state's threatened and endangered lists.

Three North American scientific societies that deal with fish, reptile, and amphibian issues have changed the common and scientific names of the western pond turtle.

Statutory Authority for Adoption: RCW 76.09.040.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Forest practices board, governmental.

Name of Agency Personnel Responsible for Drafting: Sherri Felix, 1111 Washington Street S.E., Olympia, (360) 902-1446; Implementation: Marc Engel, 1111 Washington Street S.E., Olympia, (360) 902-1390; and Enforcement: Donelle Mahan, 1111 Washington Street S.E., Olympia, (360) 902-1396.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not meet the threshold of imposing more than minor costs on businesses. A copy of the statement may be obtained by contacting Patricia Anderson, Department of Natural Resources, P.O. Box 47012, Olympia, WA 98506, phone (360) 902-1413, fax (360) 902-1428, e-mail forest.practicesboard@dnr.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Patricia Anderson, Department of Natural Resources, P.O. Box 47012, Olympia, WA 98506, phone (360) 902-1413, fax (360) 902-1428, e-mail forest.practicesboard@dnr.wa.gov.

November 15, 2011

Bridget Moran  
Chair

AMENDATORY SECTION (Amending WSR 10-11-081, filed 5/17/10, effective 6/17/10)

**WAC 222-16-080 Critical habitats (state) of threatened and endangered species.** (1) Critical habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) ~~((Bald eagle (*Haliaeetus leucocephalus*) - Harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.~~

~~((b))~~ Gray wolf (*Canis lupus*) - Harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

~~((c))~~ (b) Grizzly bear (*Ursus arctos*) - Harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

~~((d))~~ (c) Mountain (woodland) caribou (*Rangifer tarandus*) - Harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of fish and wildlife.

~~((e))~~ (d) Oregon silverspot butterfly (*Speyeria zerene hippolyta*) - Harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile

of an individual occurrence, documented by the department of fish and wildlife.

~~((f))~~ ~~Peregrine falcon (*Falco peregrinus*) - Harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.~~

~~((g))~~ ~~(e) Sandhill crane (*Grus canadensis*) - Harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of fish and wildlife.~~

~~((h))~~ ~~(f) Northern spotted owl (*Strix occidentalis caurina*).~~

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical habitat (state) for northern spotted owls.

~~((i) - Western))~~ ~~(g) Pacific pond turtle (~~*Clemmys*~~) *Actinemys marmorata*) - Harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.~~

~~((j))~~ ~~(h) Marbled murrelet (*Brachyramphus marmoratus*).~~

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within

suitable marbled murrelet habitat containing 7 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction outside a marbled murrelet detection area within a marbled murrelet special landscape and within suitable marbled murrelet habitat with 5 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical habitat (state):

(A) Where a landowner owns less than 500 acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior or Commerce, or specific forest practices within those habitats, have been determined to have the potential for a substantial impact on the environment and therefore are designated as critical habitats (state) of threatened or endangered species.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior or Commerce, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical habitats (state) of threatened or endangered species. This list shall be submitted to the board within 30 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior or Commerce which have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for inclusion in Class IV - Special forest practices. The department shall submit the list to the board within 30 days of the date the United States Secretary of the Interior or Commerce publishes a final rule designating critical habitat (federal) in the Federal Reg-

ister. Those critical habitats included by the board in Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b).

(5)(a) ~~((Except for bald eagles under subsection (1)(a) of this section,))~~ The critical habitats (state) of threatened and endangered species and specific forest practices designated in subsections (1) and (2) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission and by the United States Secretary of Interior or Commerce.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV - Special based on critical habitat (state) (WAC 222-16-080 and 222-16-050 (1)(b)) for a species, if the forest practices are consistent with one or more of the following:

(a) Documents addressing the needs of the affected species provided such documents have received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq.:

(i) A habitat conservation plan and incidental take permit; or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. § 1536(b) or 1539(a); or

(ii) An "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or

(iii) Other conservation agreement entered into with a federal agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species; or

(iv) A rule adopted by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service for the conservation of an affected species pursuant to 16 U.S.C. section 1533(d); or

(b) Documents addressing the needs of the affected species so long as they have been reviewed under the State Environmental Policy Act;

(i) A landscape management plan; or

(ii) Another cooperative or conservation agreement entered into with a state resource agency pursuant to its statutory authority for fish and wildlife protection;

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

~~((A bald eagle management plan approved under WAC 232-12-292;~~

~~(e))~~ A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1);

~~((f))~~ (e) A cooperative habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-105; or

~~((g))~~ (f) A take avoidance plan issued by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service prior to March 20, 2000;

~~((h))~~ (g) Surveys demonstrating the absence of northern spotted owls at a northern spotted owl site center have been reviewed and approved by the department of fish and wildlife and all three of the following criteria have been met:

(i) The site has been evaluated by the spotted owl conservation advisory group; and

(ii) As part of the spotted owl conservation advisory group's evaluation, the department's representative has consulted with the department of fish and wildlife; and

(iii) The spotted owl conservation advisory group has reached consensus that the site need not be maintained while the board completes its evaluation of rules affecting the northern spotted owl. The spotted owl conservation advisory group shall communicate its findings to the department in writing within sixty days of the department of fish and wildlife's approval of surveys demonstrating the absence of northern spotted owls.

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical habitat (state) for the species covered by the existing plan or evaluations.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

**WSR 11-23-115**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed November 21, 2011, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-18-030.

Title of Rule and Other Identifying Information: WAC 260-40-155 The effect of wins on eligibility.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on January 13, 2012, at 9:30 a.m.

Date of Intended Adoption: January 13, 2012.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail [dmoore@whrc.state.wa.us](mailto:dmoore@whrc.state.wa.us), fax (360) 459-6461, by January 10, 2012.

Assistance for Persons with Disabilities: Contact Patty Sorby by January 10, 2012, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To include Class C racing wins to count against thoroughbreds in mixed breed races at Class A and B tracks.

Reasons Supporting Proposal: Ensures equality in determining eligibility between thoroughbreds and quarter horses which enter into mixed breed races at the Class A and B tracks.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

November 21, 2011

Douglas L. Moore

Deputy Secretary

AMENDATORY SECTION (Amending WSR 09-05-065, filed 2/13/09, effective 3/16/09)

**WAC 260-40-155 The effect of wins on eligibility.** (1) For thoroughbreds, all wins at a Class C race meet in the state or a fair meet in the state of Oregon will not be considered in determining any eligibility at a Class A or B race meet, with the ~~((only))~~ exceptions ~~((that))~~:

(a) Any horse which has won a race at a recognized race meet may not compete in a maiden race.

(b) Thoroughbreds running at a Class A or B race meet in a mixed breed race, all wins at any recognized meet will be considered in eligibility requirements.

(2) All wins at any recognized race meet will be considered in eligibility requirements of horses running at Class C race meets.

(3) For other breeds, all wins, including maiden wins, will count in eligibility at all race meets, if the win is recognized by the breed registry association listed in WAC 260-16-050(2).

**WSR 11-23-117**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed November 21, 2011, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-053.

Title of Rule and Other Identifying Information: WAC 260-32-040 Jockey may not be owner or trainer.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on January 13, 2012, at 9:30 a.m.

Date of Intended Adoption: January 13, 2012.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail [dmoore@whrc.state.wa.us](mailto:dmoore@whrc.state.wa.us), fax (360) 459-6461, by January 10, 2012.

Assistance for Persons with Disabilities: Contact Patty Sorby by January 10, 2012, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Removes the restriction that jockeys may not own horses and allows them to own with certain restrictions.

Reasons Supporting Proposal: Ensures transparency for stakeholders and the public on true ownership of horses.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

November 21, 2011

Douglas L. Moore

Deputy Secretary

AMENDATORY SECTION (Amending WSR 06-07-065, filed 3/10/06, effective 4/10/06)

**WAC 260-32-040 Jockey ~~((may not be))~~ as an owner or trainer.** (1) A jockey shall not be ~~((an owner or))~~ a trainer

of any horse competing at the race meet where the jockey is riding.

(2) A jockey may be an owner of a horse(s) competing at the race meet where the jockey is riding under the following conditions:

(a) A jockey may not enter more than one horse in an overnight race in which they have an ownership interest in.

(b) A jockey may not ride any horse in a race in which he/she has an ownership interest except the horse that they own.

(c) A jockey is not eligible to claim as an owner.

**WSR 11-23-118**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed November 21, 2011, 10:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-037.

Title of Rule and Other Identifying Information: Title 260 WAC, Horse racing commission.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on January 13, 2012, at 9:30 a.m.

Date of Intended Adoption: January 13, 2012.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail [dmoore@whrc.state.wa.us](mailto:dmoore@whrc.state.wa.us), fax (360) 459-6461, by January 10, 2012.

Assistance for Persons with Disabilities: Contact Patty Sorby by January 10, 2012, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Gives the executive secretary and stewards the ability to approve day to day changes to assist the industry with late changes and requests to operating procedures.

Reasons Supporting Proposal: Allows the industry to receive approval for late changes in their operations without having to wait up to two months for a commission meeting.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

November 21, 2011

Douglas L. Moore  
Deputy Secretary

AMENDATORY SECTION (Amending WSR 07-11-114, filed 5/18/07, effective 6/18/07)

**WAC 260-12-235 Accepted conditions of race meeting.** The association is obligated to conduct parimutuel racing, except in the case of emergencies, on each race date allocated. The commission must approve any change in race dates. In the case of emergencies the stewards may authorize cancellation of all or a portion of any race day. The executive secretary may temporarily approve changes in the conditions of the race meet including, but not limited to, post time and additional days pending final approval of the commission at the next regularly scheduled meeting.

AMENDATORY SECTION (Amending WSR 07-01-052, filed 12/14/06, effective 1/14/07)

**WAC 260-36-180 Authority to search.** In order to protect the integrity of horse racing and to protect the interests and safety of the public and participants, the commission and its employees have the right to enter into or upon the buildings, stables, rooms, motor vehicles or other places within the grounds of a racing association to examine the same and to inspect and examine the personal property and effects of any licensee within such places. Any person who has been granted a license by the commission, by accepting a license, authorizes the commission or its employees to search his/her person and the areas indicated herein and to seize any medication, drugs, paraphernalia or device prohibited by the rules of racing, or other evidence of a violation of the rules of racing. If a licensee refuses to allow a search, the board of stewards must revoke his/her license ~~((and refer the matter to the commission))~~.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-610 ~~((Coupled entries and))~~ Mutuel field.** (1) Horses coupled in wagering as a ~~((coupled entry or))~~ mutuel field will be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any horse in a ~~((coupled entry or))~~ mutuel field be officially withdrawn or scratched, the remaining horses in that ~~((coupled entry or))~~ mutuel field will remain valid betting interests and no refunds will be granted. If all horses within a ~~((coupled entry or))~~ mutuel field are scratched, then tickets on such betting interests will be refunded, notwithstanding other provisions of these rules.

(2) For the purpose of price calculations only, ~~((coupled entries and))~~ mutuel fields will be calculated as a single finisher, using the finishing position of the leading horse in that ~~((coupled entry or))~~ mutuel field to determine order of placing. This rule will apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-625 Prior approval required for betting pools.** (1) An association that desires to offer new forms



of wagering must apply in writing to the commission and receive written approval prior to implementing the new betting pool. New forms of wagering may only be offered by a host association after they have been established in rule, except as provided in WAC 260-48-710.

(2) An association may suspend previously approved forms of wagering with the prior approval of the commission. Any carryover will be held until the suspended form of wagering is reinstated. An association may request approval of a form of wagering or separate wagering pool for a specific performance.

(3) The executive secretary may approve new type wagering pools subject to final approval by the commission at its next regular meeting.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-820 Place pools.** (1) The amounts wagered to place on the first two betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two equal portions, one being assigned to each winning betting interest and divided by the amount wagered to place on that betting interest, the resulting quotient is the profit per dollar wagered to place on that betting interest.

(2) The net place pool will be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) If horses of a ~~((coupled entry or))~~ mutuel field finished in the first two places, as a single price pool to those who selected the ~~((coupled entry or))~~ mutuel field; otherwise

(b) As a profit split to those whose selection is included within the first two finishers; but if there are no such wagers on one of those two finishers, then

(c) As a single price pool to those who selected the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(d) As a single price pool to those who selected the third-place finisher; but if there are no such wagers, then

(e) The entire pool will be refunded on place wagers for that race.

(3) If there is a dead heat for first involving:

(a) Horses representing the same betting interest, the place pool will be distributed as a single price pool.

(b) Horses representing two or more betting interests, the place pool will be distributed as a profit split.

(4) If there is a dead heat for second involving:

(a) Horses representing the same betting interest, the place pool will be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the place pool is divided with one-half of the profit distributed to place wagers on the betting interest finishing first and the remainder is distributed equally amongst place wagers on those betting interests involved in the dead heat for second.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-830 Show pools.** (1) The amounts wagered to show on the first three betting interests to finish

are deducted from the net pool, the balance remaining being the profit; the profit is divided into three equal portions, one being assigned to each winning betting interest and divided by the amount wagered to show on that betting interest, the resulting quotient being the profit per dollar wagered to show on that betting interest. The net show pool will be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) If horses of a ~~((coupled entry or))~~ mutuel field finished in the first three places, as a single price pool to those who selected the ~~((coupled entry or))~~ mutuel field; otherwise

(b) If horses of a ~~((coupled entry or))~~ mutuel field finished as two of the first three finishers, the profit is divided with two-thirds distributed to those who selected the ~~((coupled entry or))~~ mutuel field and one-third distributed to those who selected the other betting interest included within the first three finishers; otherwise

(c) As a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those three finishers, then

(d) As a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then

(e) As a single price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then

(f) As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then

(g) The entire pool will be refunded on show wagers for that race.

(2) If there is a dead heat for first involving:

(a) Two horses representing the same betting interest, the profit is divided with two-thirds distributed to those who selected the first-place finishers and one-third distributed to those who selected the betting interest finishing third.

(b) Three horses representing a single betting interest, the show pool will be distributed as a single price pool.

(c) Horses representing two or more betting interests, the show pool will be distributed as a profit split.

(3) If there is a dead heat for second involving:

(a) Horses representing the same betting interest, the profit is divided with one-third distributed to those who selected the betting interest finishing first and two-thirds distributed to those who selected the second-place finishers.

(b) Horses representing two betting interests, the show pool will be distributed as a profit split.

(c) Horses representing three betting interests, the show pool is divided with one-third of the profit distributed to show wagers on the betting interest finishing first and the remainder is distributed equally amongst show wagers on those betting interests involved in the dead heat for second.

(4) If there is a dead heat for third involving:

(a) Horses representing the same betting interest, the show pool will be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the show pool is divided with two-thirds of the profit distributed to show wagers on the betting interests finishing first and second and the remainder is distributed equally amongst show

wagers on those betting interests involved in the dead heat for third.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-860 Quinella pools.** (1) The quinella requires selection of the first two finishers, regardless of order, for a single race.

(2) The net quinella pool will be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) If horses of a ~~((coupled entry or))~~ mutuel field finish as the first two finishers, as a single price pool to those selecting the ~~((coupled entry or))~~ mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(b) As a single price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

(c) As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then

(d) As a single price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(e) The entire pool will be refunded on quinella wagers for that race.

(3) If there is a dead heat for first involving:

(a) Horses representing the same betting interest, the quinella pool will be distributed to those selecting the ~~((coupled entry or))~~ mutuel field combined with the next separate betting interest in the official order of finish.

(b) Horses representing two betting interests, the quinella pool will be distributed as if no dead heat occurred.

(c) Horses representing three or more betting interests, the quinella pool will be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the quinella pool will be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two or more betting interests, the quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish:

(a) As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(b) As a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(c) As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(d) As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then

(e) The entire pool will be refunded on quinella wagers for that race.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-870 Exacta pools.** (1) The exacta requires selection of the first two finishers, in their exact order, for a single race.

(2) The net exacta pool will be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) If horses of a ~~((coupled entry or))~~ mutuel field finish as the first two finishers, as a single price pool to those selecting the ~~((coupled entry or))~~ mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(b) As a single price pool to those whose combination finished in correct sequence as the first two betting interests; but if there are no such wagers, then

(c) As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one of those two finishers, then

(d) As a single price pool to those whose combination included the one covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then

(e) The entire pool will be refunded on exacta wagers for that race.

(3) If there is a dead heat for first involving:

(a) Horses representing the same betting interest, the exacta pool will be distributed as a single price pool to those selecting the ~~((coupled entry or))~~ mutuel field combined with the next separate betting interest in the official order of finish.

(b) Horses representing two or more betting interests, the exacta pool will be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the exacta pool will be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two or more betting interests, the exacta pool will be distributed to ticket holders in the following precedence, based upon the official order of finish:

(a) As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(b) As a single price pool to those combining the first-place betting interest with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(c) As a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then

(d) The entire pool will be refunded on exacta wagers for that race.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-890 Trifecta pools.** (1) The trifecta requires selection of the first three finishers, in their exact order, for a single race.

(2) The net trifecta pool will be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire pool will be refunded on trifecta wagers for that race.

(3) If less than three betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race will be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split.

(b) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest will share in a profit split.

(5) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second will share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third will share in a profit split.

~~(7) ((Trifecta wagering is prohibited on any race in which there is more than one coupled entry, except with written permission of the executive secretary.~~

~~(8))~~ Trifecta wagering is prohibited on any race in which there is a mutuel field.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-900 Twin trifecta pools.** (1) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. Winning first-half wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta races will be included in only one twin trifecta pool.

(2) Twin trifecta wagering may be conducted by Class A and B licensees at the discretion of the commission upon written application by an association.

(3) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool will then be divided into two separate pools: The first-half twin trifecta pool and the second-half twin trifecta pool. The percentage allocated to each pool must be approved by the commission.

(4) In the first twin trifecta race only, winning wagers will be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

(a) As a single price pool to those whose combination finished in the correct sequence as the first three betting interest; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire twin trifecta pool for that day will be refunded on twin trifecta wagers for that race and the second-half will be canceled.

(5) If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders will not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool will be retained and added to any existing twin trifecta carry-over pool.

(6) Winning tickets from the first-half of the twin trifecta will be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool will be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

(a) As a single price pool, including any existing carry-over moneys, to those whose combination finished in correct sequence as the first three betting interest; but if there are no such tickets, then

(b) The entire second-half twin trifecta pool for that race will be added to any existing carry-over moneys and retained for the corresponding second-half twin trifecta pool of the next consecutive race card.

(7) Subject to subsection ~~((19(e)))~~ ~~(18)(e)~~ of this section of the twin trifecta rules, if a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

(8) Twin trifecta wagering is prohibited on any race in which there is a mutuel field, except with written permission of the executive secretary.

~~(9) ((Twin trifecta wagering is prohibited on any race in which there is more than one coupled entry.~~

~~(10))~~ Should a betting interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest will be refunded.

~~((14))~~ (10) Should a betting interest in the second-half of the twin trifecta be scratched, an announcement concerning the scratch will be made and a reasonable amount of time will be provided for exchange of tickets that include the scratched betting interest.

~~((12))~~ (11) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, will be a winner. In the case of dead heat occurring in:

(a) The first-half of the twin trifecta, the payoff will be calculated as a profit split

(b) The second-half of the twin trifecta, the payoff will be calculated as a single price pool.

~~((13))~~ (12) If either of the twin trifecta races are canceled prior to the first twin trifecta race, or the first twin trifecta race is declared "no contest," the entire twin trifecta pool for that day will be refunded on twin trifecta wagers for that race and the second-half will be canceled.

~~((14))~~ (13) If the second-half twin trifecta race is canceled or declared "no contest," all exchange tickets and outstanding first-half winning twin trifecta tickets will be entitled to the net twin trifecta pool for that race as a single price pool, but not the twin trifecta carry-over. If there are no such tickets, the net twin trifecta pool will be distributed as described in subsection ~~((s))~~ (4) of this section of the twin trifecta rules.

~~((15))~~ (14) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than 3, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half twin pool for that race as a single price pool, but not the twin trifecta carry-over.

~~((16))~~ (15) If it be determined by the stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open (nonstarter) in the second-half of the twin trifecta only, there will be no refund or consolation payoff. The official order of finish as posted will be used to determine payoffs. This will not affect other pools for this race.

~~((17))~~ (16) A written request for permission to distribute the twin trifecta carry-over on a specific race card may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date of race card for the distribution.

~~((18))~~ (17) Contrary to subsection (5) of this section of the twin trifecta rules, during a race card designated to distribute the twin trifecta carry-over, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations as described in subsection (4) of this section of the twin trifecta rules.

~~((19))~~ (18) Should the twin trifecta carry-over be designated for distribution on a specified date, the following precedence will be followed in determining winning tickets for the

second-half of the twin trifecta after completion of the first-half of the twin trifecta:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) As a single price pool to holders of valid exchange tickets.

(e) As a single price pool to holders of outstanding first-half winning tickets.

~~((20))~~ (19) The twin trifecta carry-over will be designated for distribution on a specified date and race card only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection ~~((17))~~ (16) of this section of the twin trifecta rules.

(b) On the closing race card of the meet or split meet.

~~((21))~~ (20) If, for any reason, the twin trifecta carry-over must be held over to the corresponding twin trifecta pool of the association's subsequent meet, the carry-over will be deposited in an interest-bearing account approved by the commission. The twin trifecta carry-over plus accrued interest will then be added to the second-half twin trifecta pool of the association's following meet.

~~((22))~~ (21) If racing is canceled prior to the first-half of the twin trifecta on the closing race card of the meet or split meet, the carry-over will be held over in accordance with subsection ~~((20))~~ (19) of this section of the twin trifecta rules.

~~((23))~~ (22) If racing is canceled after the running of the first-half but before the running of the second-half on the closing race card of the meet or split meet, the carry-over pool will be paid as a single price to holders of exchange tickets or outstanding winning tickets from the first-half.

~~((24))~~ (23) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This will not prohibit necessary communications between parimutuel system and parimutuel department employees for processing of pool data.

~~((25))~~ (24) The acceptance of a twin trifecta ticket by taking an issued ticket away from the window of the terminal from which it was issued will constitute an acknowledgment by the bettor that the ticket is correct. Exchange tickets may not be canceled and/or reissued except as provided by these rules. The association, parimutuel company, and state will not be liable to any person for a twin trifecta ticket which is not:

(a) A winning ticket in accordance with the provisions of this rule; or

(b) Delivered for any reason, including but not limited to mechanical malfunction, electrical failure, machine locking, phone line failure, or other cause.

~~((26))~~ (25) Twin trifecta tickets will be sold and exchanged only by the association through parimutuel machines.

~~((27))~~ (26) The twin trifecta carry-over may be capped at a designated level approved or set by the commission so that if, at the close of any race card, the amount in the twin trifecta carry-over equals or exceeds the designated cap, the twin trifecta carry-over will be frozen until it is won or distributed under other provisions of this rule. After the twin trifecta carry-over is frozen, 100 percent of the net twin trifecta pool for each individual race will be distributed to winners of the first-half of the twin trifecta pool.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-910 Superfecta pools.** (1) The superfecta requires selection of the first four finishers, in their exact order, for a single race.

(2) The net superfecta pool will be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) The entire pool will be refunded on superfecta wagers for that race.

(3) If less than four betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race will be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest will share in a profit split.

(c) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests will share in a profit split.

(5) If there is a dead heat for second involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second will share in a profit split.

(b) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest will share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third will share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth will share in a profit split.

~~(8) ((Superfecta wagering is prohibited on any race in which there is more than one coupled entry, except with written permission of the executive secretary.~~

~~(9))~~ Superfecta wagering is prohibited on any race in which there is a mutuel field.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-915 Quinfecta pools with carryover.** (1) The quinfecta requires selection of the first five finishers in their exact order, for a single race.

(2) The net quinfecta pool will be distributed as a single price pool to those who selected the first five finishers in exact order based on the official order of finish. If there are no such wagers, then the net quinfecta pool will be carried forward to the next quinfecta performance as a carryover or added to an existing carryover.

(3) If less than five betting interests finish the race and the race is declared official, the entire quinfecta pool for that performance will be refunded.

(4) If, due to a late scratch or a participant is declared a nonstarter, and this causes the number of betting interest in the quinfecta pool to be reduced to fewer than five, the entire quinfecta pool for that performance will be refunded.

(5) If the quinfecta contest is ~~((canceled))~~ canceled or declared "no contest," the entire quinfecta pool for that performance will be refunded.

(6) If horses representing the same betting interest finish in the first five positions, the quinfecta pool will be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(7) If there is a dead heat for first involving:

(a) Horses representing five or more betting interests, all of the wagering combinations selecting five betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split.

(b) Horses representing four betting interests, all of the wagering combinations selecting the four dead-heated betting interests, irrespective of order, along with the fifth-place betting interest will share in a profit split.

(c) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place and fifth-place betting interests will share in a profit split.

(d) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place, fourth-place and fifth-place betting interests will share in a profit split.

(8) If there is a dead heat for second involving:

(a) Horses representing four or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the four or more betting interests involved in the dead heat for second will share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations correctly selecting the winner, the three dead-heated betting interests, irrespective of order, and the fifth-place betting interests will share in a profit split.

(c) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place and fifth-place betting interests will share in a profit split.

(9) If there is a dead heat for third involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner, the second-place betting interest, and the three or more dead-heated betting interests will share in a profit split.

(b) Horses representing two betting interests, all the wagering combinations correctly selecting the winner, the second-place betting interest, the two dead-heated betting interests, irrespective of order and the fifth-place betting interest will share in a profit split.

(10) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for fourth will share in a profit split.

(11) If there is a dead heat for fifth, all wagering combinations correctly selecting the first four finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth will share in a profit split.

(12) Quinfecta wagering is prohibited on any race in which there is more than one ~~((coupled entry or a))~~ mutual field, except with written permission of the board of stewards.

(13) Mandatory distribution of the carryover. The quinfecta carryover will be designated for a change in distribution on a specified date and performance under the following circumstances:

(a) Upon approval from the board of stewards. If the designated date of the race for the mandatory distribution is during the race meet and the carryover pool is not distributed, the quinfecta wager must be offered on a subsequent race until the carryover pool is distributed. A written request must contain the following information:

(i) The reason and justification for the change.

(ii) The date of the proposed distribution.

(b) On the closing performance of the meet.

(14) If the quinfecta pool and any carryover are approved for distribution, the net quinfecta pool and carryover, if any, will be distributed as a single price pool to winning wagers based upon the official order of finish.

(a) As a single price pool to those whose combination finished in correct sequence as the first five betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first four betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(e) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(f) The entire net pool will be refunded on quinfecta wagers for that race and the carryover, if any, will be held over to a quinfecta pool of the subsequent meet.

(15) If, for any reason, the quinfecta carryover must be held over to the corresponding quinfecta pool of a subsequent meet, the carryover will be deposited in an interest-bearing account approved by the executive secretary. The quinfecta carryover plus accrued interest will then be added to the net quinfecta pool of the following meet on a date and performance approved by the board of stewards.

AMENDATORY SECTION (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-920 Pick (n) pools.** (1) The pick (n) requires selection of the first-place finisher in each of a designated number of races. The association must obtain written approval from the ~~((commission))~~ executive secretary concerning the scheduling of pick (n) races, the designation of one of the methods prescribed in part (2), and the amount of any cap to be set on the carryover. The number of races so designated must be more than three (3), but no greater than ten (10). Any changes to the approved pick (n) format require prior approval from the ~~((commission))~~ executive secretary.

(2) The pick (n) pool will be apportioned under one of the following methods:

(a) Method 1, pick (n) with carryover: The net pick (n) pool and carryover, if any, will be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder will be added to the carryover.

(b) Method 2, pick (n) with minor pool and carryover: The major share of the net pick (n) pool and the carryover, if any, will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor share of the net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest

number of pick (n) races; and the major share will be added to the carryover.

(c) Method 3, pick (n) with no minor pool and no carryover: The net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(d) Method 4, pick (n) with minor pool and no carryover: The major share of the net pick (n) pool will be distributed to those who selected the first place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool will be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(e) Method 5, pick (n) with minor pool and no carryover: The major share of net pick (n) pool will be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool will be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

(f) Method 6, pick (n) with minor pool, jackpot pool, major carryover and jackpot carryover: Predetermined percentages of the net pick (n) pool will be set aside as a major pool, minor pool and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, will be distributed to those who selected the first-place finisher of each of the pick (n) races, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major net pool will be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, will be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races the jackpot net pool will be added to the jackpot carryover. The minor share of the net pick (n) pool will be distributed to those who selected the first-place finisher of the second greatest number

of pick (n) races, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

(3) If there is a dead heat for first in any of the pick (n) races involving:

(a) Horses representing the same betting interest, the pick (n) pool will be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the pick (n) pool will be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick (n) races be scratched:

(a) The racing association may allow patrons the option of selecting an alternate betting interest prior to the running of the first leg of the pick (n). The selected alternate betting interest will be substituted for the scratched betting interest, for all purposes, including pool calculations.

(b) If no alternate betting interest is selected or the selected alternate betting interest is also scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that race, will be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection will be the betting interest with the lowest program number. The parimutuel system will produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(5) The pick (n) pool will be (~~cancelled~~) cancelled and all pick (n) wagers for the individual race day will be refunded if:

(a) At least three races included as part of a pick 4, pick 5 or pick 6 are (~~cancelled~~) cancelled or declared "no contest."

(b) At least four races included as part of a pick 7, pick 8 or pick 9 are (~~cancelled~~) cancelled or declared "no contest."

(c) At least five races included as part of a pick 10 are (~~cancelled~~) cancelled or declared "no contest."

(6) If at least one race included as part of a pick (n) is (~~cancelled~~) cancelled or declared "no contest," but not more than the number specified in subsection 5 of this rule, the net pool will be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that race day. Such distribution will include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous race days.

(7) The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any race day, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, will be distributed to those whose selection finished first in the greatest number of pick (n) races for that race day.

(8) A written request for permission to distribute the pick (n) carryover on a specific race day may be submitted to the ~~((commission))~~ executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and race day for the distribution.

(9) Should the pick (n) carryover be designated for distribution on a specified date and race day in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool will be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races. The pick (n) carryover will be designated for distribution on a specified date and race day only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection 8 of this rule.

(b) Upon written approval from the ~~((commission))~~ executive secretary when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued.

(c) On the closing race day of the meet or split meet.

(10) If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover will be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest will then be added to the net pick (n) pool of the following meet on a date and race day so designated by the commission.

(11) With the written approval of the ~~((commission))~~ executive secretary, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

(12) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This will not prohibit necessary communication between parimutuel system and parimutuel department employees for processing of pool data.

(13) The association may suspend previously approved pick (n) wagering with the prior approval of the ~~((commission))~~ executive secretary. Any carryover will be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific race day.

**AMENDATORY SECTION** (Amending WSR 08-17-049, filed 8/14/08, effective 9/14/08)

**WAC 260-48-960 Handicapping contests.** A licensed class 1 racing association may ~~((with the approval of the commission))~~ operate a handicapping contest at which the participants may be charged an entry fee. All paid-entry handicapping contests must be conducted in accordance with the provisions of this rule. The executive secretary may approve handicapping contests provided they meet the following criteria:

(1) A handicapping contest is defined as a competitive event, where participants, using individual skill to evaluate a variety of factors including the past performance of horses to determine the relative qualities and abilities of horses in a

race, attempt to outperform other participants in selecting the finish of horses. Participants who are most successful in selecting horses become eligible to win prizes as prescribed in the official rules of the contest. Prizes and format are predefined and at the discretion of the class 1 racing association.

(2) A class 1 racing association desiring to offer a paid-entry handicapping contest must first apply for and receive approval from the commission to conduct a handicapping contest. The class 1 racing association must apply to the commission for approval of each and every contest. The class 1 racing association must include with its application the proposed rules for conducting the handicapping contest and the determination of prizes. The class 1 racing association will obtain written approval to operate the handicapping contest prior to the acceptance of any entry fees regarding said contest.

(3) The class 1 racing association approved to operate a handicapping contest will distribute at least ninety-five percent of the entry fees as prizes to the winners. Nothing in this section will preclude an operator from providing additional prizes or promotions.

(4) The entry fee to enter a handicapping contest will be set by the class 1 racing association. The entry fee and a description of all goods and services to be awarded as part of the handicapping contest must be fully disclosed to each participant prior to paying the entry fee. In addition, all prizes, including amenities such as airfare, meals and lodging, will also be fully disclosed to each participant prior to paying the entry fee.

(5) Races that are the subject of a handicapping contest must be races on which the class 1 racing association is authorized to conduct parimutuel wagering.

(6) The officers and employees of the class 1 racing association operating a handicapping contest, and their immediate families are prohibited from participating in any handicapping contest. Commissioners and employees of the commission are also prohibited from participating in any handicapping contest in Washington.

(7) The class 1 racing association will provide the commission a report on every handicapping contest including a record of all entry fees collected, the number of participants for each contest, the amount the class 1 racing association paid in prizes, and the name and address of each winning participant.

(8) Any violation of this section will be referred to the executive secretary. The executive secretary will have sole authority to ensure compliance with this rule, conduct hearings on violations, and determine penalties. Any decision of the executive secretary may be challenged as provided in WAC 260-08-675.

**WSR 11-23-119**

**PROPOSED RULES**

**SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed November 21, 2011, 10:38 a.m.]

Original Notice.



Preproposal statement of inquiry was filed as WSR 11-20-068.

Title of Rule and Other Identifying Information: K-3 high poverty funding—Process and rules for determining an eligible school.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Wanamaker Conference Room, 600 Washington Street S.E., Olympia, WA 98504, on December 28, 2011, at 11:30 a.m.

Date of Intended Adoption: December 28, 2011.

Submit Written Comments to: T. J. Kelly, P.O. Box 47200, Olympia, WA 98504, e-mail thomas.kelly@k12.wa.us, fax (360) 664-3683, by December 27, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by December 27, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this request is to establish the process and definition of an eligible school with respect to K-3 high poverty funding. This will allow the state to allocate the funds allotted in the biennial budget bill for enhanced K-3 class size for districts that have more than fifty percent poverty.

Reasons Supporting Proposal: Without this definition and process being established, there will be no clear method to follow when distributing the K-3 high poverty allocation in the biennial budget.

Statutory Authority for Adoption: 2ESHB 1087, section 502.

Statute Being Implemented: WAC 392-140-915.

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: OSPI recommends approving the statutory language that has been submitted with this request.

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting: T. J. Kelly, OSPI, Olympia, Washington, (360) 725-6181; Implementation: JoLynn Berge, OSPI, Olympia, Washington, (360) 725-6301; and Enforcement: Shawn Lewis, OSPI, Olympia, Washington, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change is required to implement a funding mechanism established by the legislature. A fiscal note was previously prepared and submitted to the legislature upon drafting of the bill and inclusion in the biennial budget.

A cost-benefit analysis is not required under RCW 34.05.328. This change is required to implement a funding mechanism established by the legislature. A fiscal note was previously prepared and submitted to the legislature upon drafting of the bill and inclusion in the biennial budget.

November 21, 2011

Randy Dorn

State Superintendent

## NEW SECTION

**WAC 392-140-915 High poverty funding—Process and definition of eligible schools.** For the purposes of this section, an eligible school is one in which the free and reduced priced lunch percentage for students in grades K-6 exceeds fifty percent within the school building, the school itself does not receive remote and necessary funding and the school is not part of a district that receives small school funding. CEDARS data as of October of the previous school year will be used to determine school eligibility. If a school is determined to be eligible, the K-3 full-time equivalent enrollment as reported to the office of superintendent of public instruction on the P-223 will be used to generate funding at an enhanced class size as determined by the legislature.

A preliminary CEDARS extract of October data as of March 31st will be used to determine a preliminary list of eligible schools to be published in April. This list will be used by districts as a basis for estimating the total eligible high poverty enrollment to be put into the F-203 for budgeting purposes. Districts will have until September 30th to make adjustments to this data before it is considered final for funding purposes.

A second CEDARS extract of October data as of July 30th will be used to update the list of eligible schools and will be available in August.

As of September 30th, the October CEDARS data for the previous school year will be considered final for K-3 high poverty funding purposes. A final data extract will be used to determine schools that are eligible for high poverty funding. Final determination of eligible schools for the current school year will be available in October.

Funding of K-3 high poverty schools will be based upon budgeted K-3 enrollment in eligible high poverty schools as stated in a district's F-203, and used as the basis for funding from September through December. Funding based on average annual full-time equivalent enrollment reported in final approved eligible schools will begin in January and continue through August.

## **WSR 11-23-120**

### **PROPOSED RULES**

### **HORSE RACING COMMISSION**

[Filed November 21, 2011, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-18-027.

Title of Rule and Other Identifying Information: WAC 260-32-370 Apprentice jockeys.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on January 13, 2012, at 9:30 a.m.

Date of Intended Adoption: January 13, 2012.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail dmoore@whrc.state.wa.us, fax (360) 459-6461, by January 10, 2012.

Assistance for Persons with Disabilities: Contact Patty Sorby by January 10, 2012, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifies the procedure for an apprentice to waive all or part of the weight allowances.

Reasons Supporting Proposal: The confusion by stakeholders in the procedure for which an apprentice jockey is allowed to waive all or parts of their weight allowance has come into question. The amendments clarify this procedure.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

November 21, 2011

Douglas L. Moore

Deputy Secretary

AMENDATORY SECTION (Amending WSR 06-07-065, filed 3/10/06, effective 4/10/06)

**WAC 260-32-370 Apprentice jockeys.** (1) An applicant for an apprentice jockey license may be prohibited from riding until the stewards or the commission has sufficient opportunity (not to exceed 14 days) to verify the applicant's previous riding experience.

(2) An apprentice jockey may be granted an apprentice certificate by the board of stewards. The apprentice certificate ~~((shall))~~ will grant an apprentice all the allowances and conditions stated in these rules.

(3) An apprentice jockey eligible for a ten-pound allowance may not accept mounts on two year olds and first time starters, without prior approval of the board of stewards.

(4) The conditions of an apprentice jockey license do not apply to quarter horse or mixed breed racing. A jockey's performances in quarter horse or mixed breed racing do not apply to the conditions of an apprentice jockey.

(5) An applicant with an approved apprentice certificate from another jurisdiction may be licensed as an apprentice jockey.

(6) An apprentice certificate may be obtained from the stewards on a form provided by the commission. A person ~~((shall))~~ may not receive more than one apprentice certificate. In case of emergencies, a copy of the original may be obtained from the commission where it was issued.

(7) The apprentice jockey ~~((shall))~~ will be responsible to have his/her apprentice certificate with them at all times. Prior to riding, the apprentice certificate ~~((shall))~~ will be submitted to the clerk of scales at each racing association in which the apprentice is licensed and riding.

(8) The apprentice jockey ~~((shall))~~ must keep an accurate updated record of his/her first forty winners, to be recorded on the certificate by the clerk of scales.

(9) An apprentice jockey may claim the following weight allowances in all overnight races except stakes and handicaps:

(a) Ten pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners:

(b) Seven pound allowance until the apprentice has ridden an additional thirty-five winners; and

(c) If an apprentice has ridden a total of forty winners prior to the end of a period of one year from the date of riding their fifth winner, the apprentice jockey ~~((shall))~~ will have an allowance of five pounds until the end of that year;

(d) If after one year from the date of the fifth winning mount, the apprentice jockey has not ridden forty winners, the applicable weight allowance ~~((shall))~~ will continue for one more year or until the 40th winner, whichever comes first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted.

(e) An apprentice may waive ~~((the ten or seven pound))~~ any or all of the above weight allowances, but ~~((shall))~~ may not be eligible to reinstate ~~((either))~~ any of the allowances once voluntarily waived.

(f) An apprentice may be named as a replacement rider on a mount entered without the apprentice weight allowance only after entries have been drawn at which time the apprentice allowance will not be deemed to have been voluntarily waived.

(10) The commission may extend the period in which an apprentice jockey is allowed a weight allowance when, at the discretion of the commission, an apprentice jockey is unable to continue riding due to:

(a) Physical disablement or illness;

(b) Military service;

(c) Attendance in an institution of secondary or higher education;

(d) Restriction on racing;

(e) Other valid reasons.

(11) In order to qualify for an extension, an apprentice jockey ~~((shall))~~ must have been rendered unable to ride for a period of not less than seven consecutive days during the period in which the apprentice was entitled to an apprentice weight allowance.

(12) The commission currently licensing the apprentice jockey ~~((shall))~~ will have the authority to grant an extension to an eligible applicant, but only after the apprentice has produced documentation, verifying time lost as defined by this regulation.

(13) An apprentice may petition the jurisdictions in which he or she is licensed and riding for an extension of the time for claiming apprentice weight allowances granted by the commission, and the apprentice ~~((shall))~~ will be bound by the decision of the jurisdiction so petitioned.

**WSR 11-23-121**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed November 21, 2011, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-148.

Title of Rule and Other Identifying Information: WAC 260-36-120 Denial, suspension, revocation—Grounds.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on January 13, 2012, at 9:30 a.m.

Date of Intended Adoption: January 13, 2012.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail dmoore@whrc.state.wa.us, fax (360) 459-6461, by January 10, 2012.

Assistance for Persons with Disabilities: Contact Patty Sorby by January 10, 2012, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Allows the board of stewards the ability to approve applicants with felony convictions a conditional license.

Reasons Supporting Proposal: To decrease unnecessary hearings before the commission.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

November 21, 2011

Douglas L. Moore

Deputy Secretary

**AMENDATORY SECTION** (Amending WSR 10-07-048, filed 3/11/10, effective 4/11/10)

**WAC 260-36-120 Denial, suspension, and revocation—Grounds.** (1) The commission (~~or its designee~~), executive secretary, or board of stewards may refuse to issue or may deny a license to an applicant, may modify or place conditions upon a license, may suspend or revoke a license issued, may order disciplinary measures, or may ban a person from all facilities under the commission's jurisdiction, if the applicant licensee, or other person:

(a) ~~Has been convicted of ((violating any law regarding gambling or a controlled substance))~~ any felony or gross misdemeanor crime;

(b) Is subject of current prosecution of any felony crime;

(c) Has any felony conviction under appeal;

~~((b))~~ (d) Has pending criminal charges;

~~((e))~~ (e) Has failed to meet the minimum qualifications required for the license for which they are applying;

~~((f))~~ (f) Has failed to disclose or states falsely any information required in the application;

~~((g))~~ (g) Has been found in violation of statutes or rules governing racing in this state or other jurisdictions;

~~((h))~~ (h) Has a proceeding pending to determine whether the applicant or licensee has violated the rules of racing in this state or other racing jurisdiction;

~~((i))~~ (i) Has been or is currently excluded from a race-track at which parimutuel wagering on horse racing is conducted by a recognized racing jurisdiction;

~~((j))~~ (j) Has had a license denied by any racing jurisdiction;

~~((k))~~ (k) Is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or who may interfere or has interfered with the orderly conduct of a race meeting;

~~((l))~~ (l) Demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

~~((m))~~ (m) Has violated any of the alcohol or substance abuse provisions outlined in chapter 260-34 WAC;

~~((n))~~ (n) Has violated any of the provisions of chapter 67.16 RCW;

~~((o))~~ (o) Has violated any provisions of Title 260 WAC;

~~((p))~~ (p) Has association with persons of known disreputable character; or

~~((q))~~ (q) Has not established the necessary skills or expertise to be qualified for a license as required by WAC 260-36-060.

(2) The commission, executive secretary or ~~(its designee)~~ board of stewards must deny the application for license or suspend or revoke an existing license if the applicant or licensee:

~~((a) Has been convicted of any felony crime against a person. "Crime against a person" means a conviction for any offense enumerated in chapters 9A.32, 9A.36, 9A.40, 9A.42, and 9A.44 RCW, or an offense which would constitute an offense enumerated in those chapters if committed in Washington state;~~

~~(b) Has been convicted of any felony drug crime involving the possession or use of any drug as defined in chapter 69.41 RCW or any controlled substance as defined in chapter 69.50 RCW within the past three years;~~

~~(c) Has been convicted of any other felony drug crime as defined in chapter 69.41 RCW or felony crime involving a controlled substance as defined in chapter 69.50 RCW, or a felony drug crime which would constitute an offense enumerated in those chapters if committed in Washington state;~~

~~(d) Has been convicted of any other felony crime within the past ten years. Other felony crime includes any felony conviction not listed in (a), (b), and (c) of this subsection. This also includes an offense committed in another jurisdiction, which would constitute a felony if committed in Washington state;~~

~~(e) Has five or more convictions for gross misdemeanors within the last three years, as classified by the laws of the~~

state of Washington or the laws of the jurisdiction in which the conviction occurred;

~~(f) Is subject to current prosecution for any felony crime;~~

~~(g) Has any felony conviction under appeal;~~

~~(h) Is currently suspended or revoked in Washington or by another recognized racing jurisdiction;~~

~~(i)) (a) Is certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order; ((e~~

~~(j)) (b) Has any outstanding arrest warrants((~~

~~(3) In considering a challenge of a decision denying or revoking a license pursuant to subsection (2) of this section, the commission may only reverse the denial or revocation on a showing by the appellant of mitigating information and that the best interests of horse racing would not be compromised by granting or reinstating a license.~~

~~(4))~~; or

~~(c) Is currently suspended or revoked in Washington or by another recognized racing jurisdiction.~~

(3) A license suspension or revocation will be reported in writing to the applicant or licensee and electronically to the Association of Racing Commissioners International, Inc.

**WSR 11-23-122**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed November 21, 2011, 11:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-18-024.

Title of Rule and Other Identifying Information: WAC 392-194-001 and 392-194-002, school personnel certificate fees, professional certification, office of superintendent of public instruction (OSPI).

Hearing Location(s): OSPI, Brouillet Conference Room, 600 Washington Street S.E., Olympia, WA 98504, on December 28, 2011, at 10:00.

Date of Intended Adoption: December 28, 2011.

Submit Written Comments to: David Kinnunen, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail David.Kinnunen@k12.wa.us, fax (360) 586-0145, by December 20, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by December 20, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These will be new rules, WAC 392-194-001 and 392-194-002.

The purpose of this chapter is to establish the fee for processing initial educator certificate applications and subsequent actions. The legislature finds that the processing of certifications should be moved to an on-line system that allows educators to manage their certifications and provide better information to policymakers. The legislature intends to assess a certification processing fee to eliminate state-funded support of the cost to issue educator certificates.

Statutory Authority for Adoption: ESHB 1449 (chapter 23, Laws of 2011).

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

Name of Proponent: OSPI.

Name of Agency Personnel Responsible for Drafting and Implementation: David Kinnunen, OSPI, (360) 725-6406; and Enforcement: Martin Mueller, OSPI, (360) 725-6175.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

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

November 21, 2011

Randy Dorn

State Superintendent

**Chapter 392-194 WAC**

**SCHOOL PERSONNEL CERTIFICATE FEES**

NEW SECTION

**WAC 392-194-001 Purpose and authority.** The purpose of this chapter is to establish the fee for processing initial educator certificate applications and subsequent actions. The authority for this chapter is chapter 23 (ESHB 1449), Laws of 2011.

NEW SECTION

**WAC 392-194-002 Fee for processing initial educator certificate applications and subsequent actions.** Effective October 1, 2011, the superintendent of public instruction will charge a nonrefundable fee of thirty-three dollars for processing any certificate application or requests for administrative action which results in the issuance, renewal or reissuance of a permit or certificate pursuant to RCW 28A.410.010, 28A.410.025, 28A.410.210, and chapters 181-85 and 181-77 WAC; for issuance of a letter authorizing internship/student teaching pursuant to WAC 181-78A-130; and any subsequent action upon any certificate or permit referred to within this chapter. Educator certificates governed under this chapter include:

(1) Teacher. The teacher certificate, including teacher exchange permits as provided in WAC 181-79A-140, authorizes service as a classroom teacher.

(2) Career and technical. The career and technical education certificate authorizes service in career and technical education programs in accordance with the provisions of chapter 181-77 WAC.

(3) First people's language/culture. The first peoples' language, culture, and oral tribal traditions teacher certificate authorizes service as defined under WAC 181-78A-700(8).

(4) Administrator.

(5) Educational staff associate. The educational staff associate certificate authorizes service in the roles of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, and school social work-

ers: Provided, That nothing within chapter 181-79A WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations promulgated by the appropriate licensure board or agency.

(6) Limited certificates. The following limited certificates are issued to individuals under specific circumstances set forth in WAC 181-79A-231:

- (a) Conditional certificate.
- (b) Substitute certificate.
- (c) Emergency certificate.
- (d) Emergency substitute certificate.
- (e) Nonimmigrant alien exchange teacher.
- (f) Intern substitute teacher certificate.
- (g) Transitional certificate.
- (h) Provisional alternative administrative certificate.

**WSR 11-23-123**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed November 21, 2011, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-067.

Title of Rule and Other Identifying Information: Definition of resident full-time student for the purposes of federal forest distribution funds to be implemented with this rule change.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Wanamaker Conference Room, 600 Washington Street S.E., Olympia, WA 98502, on December 28, 2011, at 10:00.

Date of Intended Adoption: December 28, 2011.

Submit Written Comments to: T. J. Kelly, P.O. Box 47200, Olympia, WA 98504, e-mail thomas.kelly@k12.wa.us, fax (360) 725-6181, by December 22, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by December 22, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to ensure accurate distribution of federal forest funds based on resident enrollment.

Reasons Supporting Proposal: If the proposal is not supported, then the increasing amount of students in alternative learning experience (ALE) programs will begin to skew the distribution of federal forest funds.

Statutory Authority for Adoption: SSB 5239, section 1(5).

Statute Being Implemented: WAC 392-121-421.

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: This rule is necessary to ensure the accurate distribution of federal forest funds, based on resident enroll-

ment. With the increasing popularity of ALE programs across the state, it is necessary to address how these ALE enrolled students are treated with respect to this definition.

Name of Proponent: OSPI, public.

Name of Agency Personnel Responsible for Drafting: T. J. Kelly, OSPI, Olympia, Washington, (360) 725-6181; Implementation: JoLynn Berge, OSPI, Olympia, Washington, (360) 725-6301; and Enforcement: Shawn Lewis, OSPI, Olympia, Washington, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These changes are required to ensure the accurate distribution of federal dollars. It has minimal to no impact on state funding.

A cost-benefit analysis is not required under RCW 34.05.328. These changes are required to ensure the accurate distribution of federal dollars. It has minimal to no impact on state funding.

October 14, 2011

Randy Dorn

State Superintendent

NEW SECTION

**WAC 392-121-421 Definition—Resident student—Basic education allocation—Federal forest funds.** As used in RCW 28A.520.020, resident full-time equivalent students means full-time equivalent students as defined in WAC 392-121-122, excluding students enrolled in alternative learning experience programs who reside outside the county of the school district boundaries.

**WSR 11-23-130**  
**PROPOSED RULES**  
**WASHINGTON STATE PATROL**

[Filed November 21, 2011, 4:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-052.

Title of Rule and Other Identifying Information: WAC 204-10-022 Body requirements.

Hearing Location(s): General Administration Building Auditorium, on December 27, 2011, at 12:30.

Date of Intended Adoption: January 2012.

Submit Written Comments to: Melissa Van Gorkom, P.O. Box 42600, Olympia, WA 98504-2600, e-mail WSP rules@wsp.wa.gov, fax (360) 596-4015, by December 26, 2011.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by December 23, 2011, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: With the passage of SB [ESSB] 5585, the legislature created a new vehicle classification "custom vehicle." Changes to WAC 204-10-022 include but may not be limited to adding exemptions outlined under the legislation for custom vehicles.

Reasons Supporting Proposal: Updates will reflect recent changes to RCW and provide clean up to existing language.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Melissa Van Gorkom, P.O. Box 42600, Olympia, WA 98504, (360) 596-4017; and Enforcement: Washington State Patrol, P.O. Box 42600, Olympia, WA 98504, (360) 596-4000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change will not impact a small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule as defined in the RCW.

November 21, 2011

John R. Batiste  
Chief

AMENDATORY SECTION (Amending WSR 09-18-071, filed 8/31/09, effective 10/1/09)

**WAC 204-10-022 Body requirements.** (1) Defroster and defogging devices: Every enclosed motor vehicle must be equipped with a device capable of defogging and defrosting the windshield area. Vehicles or exact replicas of vehicles manufactured prior to January 1938 are exempt from this requirement.

(2) Door latches: Every enclosed motor vehicle equipped with side doors leading directly into a compartment that contains one or more seating accommodations must be equipped with door latches which firmly and automatically secure the door when pushed closed and which allow each door to be opened both from the inside and outside.

(3) Hoodlatches: A front opening hood must be equipped with a primary and a secondary latching system to hold the hood in a closed position.

Hoods are optional equipment on vehicles defined as street rod((s)) vehicles, custom vehicles and kit vehicles (~~(by the Washington state patrol vehicle inspectors)~~).

(4) Enclosed passenger compartment: A motor vehicle with an enclosed passenger compartment and powered by an internal combustion engine must be constructed to prevent the entry of exhaust fumes into the passenger compartment.

(5) Floor pan: A motor vehicle must be equipped with a floor pan under the entire passenger compartment capable of supporting the weight of the number of occupants that the vehicle is designed to carry.

(6) Bumpers: A motor vehicle must be equipped with a bumper on both the front and rear of the vehicle with the exception of motor vehicles where the original or predominant body configuration, provided by a recognized manufacturer, did not include such bumper or bumpers in the design of the vehicle. For the relevant model year, bumpers must accommodate recognized manufacturer impact absorption systems pursuant to applicable SAE Bumper Standards or equivalent standards.

Bumpers are optional equipment on vehicles defined as street rod((s)) vehicles, custom vehicles and kit vehicles (~~(by the Washington state patrol vehicle inspectors)~~).

Bumpers, unless specifically exempted above, must:

(a) Be at least four and one-half inches in vertical height.

(b) Be centered on the vehicle's centerline.

(c) Extend no less than the width of the respective wheel track distances.

(d) Be attached to the vehicle in a manner equivalent to the original manufacturer's installation.

(e) Be horizontal load bearing and attach to the vehicle frame to effectively transfer energy when impacted.

(f) Be mounted at a maximum height based on the original gross vehicle weight rating (GVWR) of the vehicle, measured from a level surface to the highest point on the bottom of the bumper. For vehicles exempted from the bumper requirement for the reasons stated above, a maximum frame elevation measurement must be made to the bottom of the frame rail. Maximum heights are as follows:

	Front	Back
Passenger Vehicles	22 Inches	22 Inches
4,500 lbs. and under GVWR	24 Inches	26 Inches
4,501 lbs. to 7,500 lbs. GVWR	27 Inches	29 Inches
7,501 lbs. and over GVWR	28 Inches	30 Inches

A blocker beam or additional bumper may not be used to meet the above requirements.

(g) If an existing bumper from a recognized manufacturer is not used and a special bumper is fabricated, it must be certified as meeting the bumper standards set under 49 CFR 581.

(7) Fenders: All wheels of a motor vehicle must be equipped with fenders designed to cover the entire tire tread width that comes in contact with the road surface. Coverage of the tire tread circumference must be from at least fifteen degrees in front and to at least seventy-five degrees to the rear of the vertical centerline at each wheel measured from the center of the wheel rotation. At no time can the tire come in contact with the body, fender, chassis, or suspension of the vehicle. Street rods and kit vehicles which are more than forty years old and are owned and operated primarily as a collector's item need not be equipped with fenders when the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads.

(8) Frame: A motor vehicle must be equipped with a frame. If an existing frame from a recognized manufacturer is not used and a special frame is fabricated, it must be constructed of wall box or continuous section tubing, wall channel, or unitized construction capable of supporting the vehicle, its load, and the torque produced by the power source under all conditions of operation. The structural strength of the frame must be certified by the builder as meeting the applicable standards set under 49 CFR 571 Parts 201, 214, 216, and 220 through 224, and the SAE Standards. Such certification must be made by either:

(a) Certification provided on the vehicle in the form of a label which has been affixed in accordance with FMVSS outlining the portions of the FMVSS which have been met; or

(b) A notarized letter from the builder of the frame outlining the portions of the Federal Motor Vehicle Safety Standards (FMVSS) which have been met; or

(c) If the vehicle is a kit vehicle, as outlined in RCW 46.12.440, documentation from the manufacturer of the vehicle frame that informs the owner that the frame has not been certified as meeting the applicable federal motor vehicle safety standard set under 49 CFR 571 Parts 201, 214, 216, and 220 through 224, and the applicable SAE Standards.

### WSR 11-23-131

#### PROPOSED RULES

#### WASHINGTON STATE PATROL

[Filed November 21, 2011, 4:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-055.

Title of Rule and Other Identifying Information: Chapter 204-95 WAC, Limousine businesses.

Hearing Location(s): General Administration Building Auditorium, on December 27, 2011, at 11:30.

Date of Intended Adoption: January 2012.

Submit Written Comments to: CVEO 4 William Balcom, 210 11th Avenue S.W., Room G21, Olympia, WA 98504-2614, e-mail William.balcom@wsp.wa.gov, fax (360) 596-3829, by December 26, 2011.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by December 23, 2011, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the 2011 legislative session SSB 5502 was passed which added language allowing a city with a population of five hundred thousand or more to enforce chapter 46.72A RCW through a joint agreement with the department of licensing.

Reasons Supporting Proposal: Updates to the WAC are necessary to bring the rules in line with RCW and provide cleanup to the existing language.

Statutory Authority for Adoption: RCW 46.37.005 and 46.72A.030.

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

Name of Proponent: Washington state patrol, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: William Balcom, GA Building, P.O. Box 42614, Olympia, WA 98504, (360) 596-3807; and Enforcement: Washington State Patrol, GA Building, P.O. Box 42614, Olympia, WA 98504, (360) 596-3807.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change is to implement statutory language and should not impact a small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule as defined in the RCW.

November 21, 2011

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 02-21-001, filed 10/2/02, effective 11/2/02)

**WAC 204-95-030 Fees.** (1) The fee for each vehicle inspection will be \$25.00. The ~~((master license service of the))~~ department of licensing, as authorized in RCW 46.72A.030 and 46.72A.090, ~~((shall))~~ will charge ~~((and collect))~~ the ~~((following))~~ inspection fees on behalf of the ~~((Washington state patrol:~~

~~Fees listed in WAC 308-87-060~~

~~Initial and Annual Limousine Vehicle Safety Inspection~~ \$25.00

~~Background Check Fees as set in WAC 446-20-600))~~

inspecting agency, except a city or port that meets the criteria in chapter 46.72A RCW may collect the fee at the time of the inspection.

(2) When required for a limousine carrier business license applicant, licensee, or limousine chauffeur, the background check ~~((shall))~~ will consist of a ~~((fingerprint card based criminal background search at the state level conducted by the Washington state patrol identification section))~~ background check as allowed through the Washington state Criminal Records Privacy Act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834 as outlined in WAC 308-87-070. Pursuant to RCW 43.43.742, the applicant, driver, or employer will pay cost associated with the record check.

AMENDATORY SECTION (Amending WSR 02-21-001, filed 10/2/02, effective 11/2/02)

**WAC 204-95-080 Annual inspections, safety of equipment.** (1) Upon the request of a limousine carrier business license applicant or licensee applying for the initial issuance, or annual renewal of their limousine vehicle certificate(s) with the department of licensing, the ~~((Washington state patrol shall))~~ inspecting agency as outlined in RCW 46.72A.030 will conduct a safety inspection of the vehicle(s) to be used in the limousine service. Applicants and licensees must present their limousine vehicle(s) at ~~((a Washington state patrol))~~ an inspection site established by the inspecting agency, by appointment~~((, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.))~~. The limousine vehicle must pass the inspection to qualify for initial issuance or renewal of the limousine vehicle certificate by the department of licensing. The vehicle inspection will consist of the following:

~~((+))~~ (a) Verification of vehicle liability insurance and current vehicle registration.

(b) Check of all standard equipment for vehicles ~~((will be checked))~~ for conformance with requirements as outlined

in chapter 46.37 RCW, to include: Brake ((systems)) equipment, functional brake performance test, wheel systems, steering and suspension, fuel system, exhaust system, lighting and signal system, visibility system, window safety glazing and sunscreening or coloring, body components, horn, doors, hood, trunk latch, seatbelts, and bumpers.

(c) Review of interior condition and cleanliness.

(2) Upon successful completion of the safety inspection, the licensee will be given a copy of the inspection form to submit to department of ~~((licensing))~~ revenue. Upon receipt and approval of all licensing documents and fees, the ~~((master license service))~~ department of licensing will issue a decal ~~((to the limousine carrier business licensee for each limousine vehicle to be placed on the vehicle's right rear bumper.))~~ which must be located to the left of the rear license plate, easily observable, and within twelve inches of the plate. The decal shall not be affixed to the license plate or a light.

(3) If a vehicle fails the initial inspection, the original inspection paperwork must be provided at the time of reinspection, and the reinspection must be done at the same inspection facility as the initial inspection.

### WSR 11-23-132

#### PROPOSED RULES

#### WASHINGTON STATE PATROL

[Filed November 21, 2011, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-053.

Title of Rule and Other Identifying Information: WAC 204-21-190 and 204-21-210, school bus lamps.

Hearing Location(s): General Administration Building Auditorium, on December 27, 2011, at 11:00.

Date of Intended Adoption: January 2012.

Submit Written Comments to: CVEO 4 William Balcom, 210 11th Avenue S.W., Room G21, Olympia, WA 98504-2614, e-mail William.balcom@wsp.wa.gov, fax (360) 596-3829, by December 26, 2011.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by December 23, 2011, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes are needed to reference current standards regarding lamps so school buses can comply with new technology and save public school districts money when purchasing new buses and replacing lamp bulbs.

Reasons Supporting Proposal: Both WAC changes will allow for cost savings to school districts when new school buses are purchased. Updates will also reference current federal rules and provide cleanup to existing language.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

Rule is necessary because of federal law, [no further information supplied by agency].

Name of Agency Personnel Responsible for Drafting and Implementation: William Balcom, GA Building, P.O. Box 42614, Olympia, WA 98504, (360) 596-3807; and

Enforcement: Washington State Patrol, GA Building, P.O. Box 42614, Olympia, WA 98504, (360) 596-3807.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change will not impact a small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule as defined in the RCW.

November 21, 2011

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

**WAC 204-21-190 School bus warning lamps.** (1) If the bus is a privately owned school bus or private carrier bus, then it must not use the eight lamp warning system unless such use is in conformance with the rules and regulations set forth by the superintendent of public instruction in chapters 392-143 and 392-145 WAC. The requirements for private carrier buses may be found under chapter 204-32 WAC.

(2) If the bus is a school bus owned and operated by any public school district and all privately owned school buses operated under contract with a school district in the state and used for the transportation of public school children, then the warning lamp system must:

(a) Be operated in accordance with the regulations set forth in chapter 392-145 WAC.

(b) Consist of a total of eight lamps conforming to SAE Standard J887(~~(a, J1318,))~~ or the standard in effect for such lamp at the time it was manufactured. Two amber and two red on both the front and rear of the bus. The amber lamps must be mounted inboard of the red lamps.

(c) Be mounted as high as practicable on the bus body and as near the outside edges of the body as curvature permits.

(d) Have shielding to protect the lamps from the elements and/or be mounted flush with the body surface.

(e) Be mounted on a background that is painted black and extends a minimum of three inches outward from the lamps.

(f) Be mounted and aimed as specified in 49 CFR Part 571.108 (FMVSS 108) and SAE Standard J887a.

(g) Be clearly visible from a distance of at least five hundred feet in normal sunlight.

(h) Be activated only by means of a manually operated switch. Such activation will cause the right and left amber lamps to flash alternately until the stop signal arm is extended, or the bus entrance door is opened, at which time the amber lamps must be automatically deactivated and the right and left red lamps must be automatically activated. Whenever the warning lamp system has been activated, opening of the entrance door must automatically deactivate the amber lamps, cause the stop signal arm to extend, and activate the red lamps. Automatic extension of the stop signal arm does not apply to systems equipped with a manually operated stop signal arm.

(i) Have all lamps flashing at a rate from sixty to one hundred twenty times per minute and must reach full brilliance during each cycle.



(j) Have lamp controls which must consist of:

(i) The master or sequencing switch which must be in plain view and mounted within easy reach of the driver, and which must activate the system sequencing and deactivate the system at any time during the sequence.

(ii) An override switch which must automatically activate the red lamps whenever the stop signal arm is extended even though the master control switch is turned off, and which must automatically deactivate the amber lamps if previously activated regardless of the then present normal state of sequencing or entrance door position. Such override switch must be designed and installed so as to function with air, vacuum, electric, or manually operated stop signal arms. The stop signal arm must be capable of being extended at any time, regardless of the position of the entrance door. The opening of the entrance door must not cause extension of the stop signal arm, or the activation of the red lamps unless the master switch has been activated.

(iii) A minimum of two pilot lamps, one amber and one red, each of which must flash when the like colored warning lamps are in operation. Pilot lamps which show the operation of each individual lamp are permissible. All pilot indicators must be located so as to be clearly visible to the driver.

**AMENDATORY SECTION** (Amending WSR 08-19-104, filed 9/17/08, effective 10/18/08)

**WAC 204-21-210 Bus hazard warning strobe lamp.**

All bus hazard warning strobe lamps must meet the Class (F) 2 requirements of SAE Standard J1318, and may only be used as follows:

(1) School buses may be equipped with a single additional hazard strobe lamp in addition to the eight lamp warning system. Such lamps must:

(a) Not be mounted any closer than six feet from the rear of the bus measured from a vertical plane tangent to the rear-most point of the bus body. However:

(i) If the bus is equipped with a roof hatch falling within the above mentioned measurements, the strobe lamp may be located directly behind the roof hatch.

(ii) If the bus has a clear lens strobe lamp, less than eight inches in height, it may be mounted on the centerline of the roof in the rear one-half of the bus.

(b) Be activated by a switch independent of all other lamp switches. This switch must be plainly labeled and have a pilot lamp that must indicate when the lamp is in operation.

(c) Only be used when the bus is occupied with school children and one or more of the following conditions exists:

(i) The bus is in motion in inclement, sight obscuring conditions, including but not limited to rain, fog, snow, and smoke;

(ii) There is a need to improve the visibility of the bus when stopping, standing, or starting onto a highway;

(iii) There is limited visibility caused by geographic hazards such as winding roadways, hills, trees, buildings, etc.

The strobe lamp shall not be activated solely because of darkness.

(2) Municipal transit vehicles (as defined in RCW 46.04.355) may be equipped with a single additional hazard strobe lamp. Such lamps:

(a) May be mounted on the centerline of the roof in the rear one-half of the bus so long as the lamp is clear and less than eight inches in height.

(b) Be activated by a switch independent of all other lamp switches. The hazard strobe lamp switch must be plainly labeled and have a pilot lamp that must indicate when the lamp is in operation.

(c) Only be used when the bus is occupied with passengers and one or more of the following conditions exists:

(i) The bus is in motion in inclement, sight obscuring conditions, including but not limited to rain, fog, snow, and smoke;

(ii) There is a need to improve the visibility of the bus when stopping, standing, or starting onto a highway;

(iii) There is limited visibility caused by geographic hazards, such as winding roadways, hills, trees, etc.

The strobe lamp must not be activated solely because of darkness.

**WSR 11-23-133**

**PROPOSED RULES**

**WASHINGTON STATE PATROL**

[Filed November 21, 2011, 4:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-054.

Title of Rule and Other Identifying Information: WAC 204-53-010 Helmet exemption.

Hearing Location(s): General Administration Building Auditorium, on December 27, 2011, at 12:00.

Date of Intended Adoption: January 2012.

Submit Written Comments to: Melissa Van Gorkom, P.O. Box 42600, Olympia, WA 98504-2600, e-mail WSP rules@wsp.wa.gov, fax (360) 596-4015, by December 26, 2011.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by December 23, 2011, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: With the passage of HB 1328, the legislature clarified when helmet requirements are temporarily suspended. Changes to chapter 204-53 WAC may include, but may not be limited to updating the language to mirror language recently amended in RCW 46.61.613.

Reasons Supporting Proposal: Updates will reflect recent changes to RCW and provide cleanup to existing language.

Statutory Authority for Adoption: RCW 46.37.005.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Melissa Van Gorkom, P.O. Box 42600, Olympia, WA 98504, (360) 596-4017; and Enforcement: Washington State Patrol, P.O. Box 42600, Olympia, WA 98504, (360) 596-4000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change will not impact a small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule as defined in the RCW.

November 21, 2011

John R. Batiste  
Chief

AMENDATORY SECTION (Amending Order 90-004, filed 2/11/91, effective 3/14/91)

**WAC 204-53-010 Helmet exemption—Antique motor-driven cycle.** ~~((As provided by RCW 46.37.530 (1)(c), a person operating or riding upon an antique motor-driven cycle is not required to use a protective helmet.))~~ As the term is used in RCW 46.37.530 (1)(c) and this section, an antique motor-driven cycle is a motor-driven cycle not less than forty years old which has been restored to its original condition and which is being ridden ~~((to or from or otherwise in conjunction with an antique or classic motorcycle contest, show, or other such assemblage))~~ on a closed road during a parade or public demonstration that has been permitted by a local jurisdiction. Further, an antique motor-driven cycle ~~((shall))~~ will not be powered by a motor which produces more than five brake horsepower as defined in RCW 46.04.332.

#### WSR 11-23-134

#### PROPOSED RULES

#### WASHINGTON STATE PATROL

[Filed November 21, 2011, 4:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-056.

Title of Rule and Other Identifying Information: Chapter 204-96 WAC, Vehicle impounds.

Hearing Location(s): General Administration Building Auditorium, on December 27, 2011, at 1:00.

Date of Intended Adoption: January 2012.

Submit Written Comments to: Melissa Van Gorkom, P.O. Box 42600, Olympia, WA 98504-2600, e-mail [wsprules@wsp.wa.gov](mailto:wsprules@wsp.wa.gov), fax (360) 596-4015, by December 26, 2011.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by December 23, 2011, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: With the passage of SB [E2SSB] 5000, the rules regarding vehicle impounds need to be updated to reflect the new process for a DUI impound.

Reasons Supporting Proposal: The changes will include addition [adding] a new section to address the twelve hour DUI holds as outlined in legislation and updating other language to make it clearer.

Statutory Authority for Adoption: RCW 46.55.075.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Lieutenant Dale Alexander, P.O. Box 42600, Olympia, WA 98504, (360) 596-4114; and Enforcement: Washington State Patrol, P.O. Box 42600, Olympia, WA 98504, (360) 596-4000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change will not impact a small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule as defined in the RCW.

November 21, 2011

John R. Batiste  
Chief

AMENDATORY SECTION (Amending WSR 04-07-012, filed 3/4/04, effective 4/4/04)

**WAC 204-96-010 Vehicle impounds.** (1) When a driver of a vehicle is arrested for a violation of(=

~~RCW 46.61.502 Driving under the influence;~~

~~RCW 46.61.504 Physical control of vehicle under the influence;~~

~~RCW 46.20.342 Driving while license suspended or revoked;~~

~~Driving under other license/permit while license suspended or revoked;))~~

RCW 46.20.342, the arresting officer may, in his/her own discretion, considering reasonable alternatives, cause the vehicle to be impounded.

(a) When an arrest is made for violation of RCW 46.20.342 and the vehicle is a commercial vehicle, the driver of the vehicle is not the owner of the vehicle, the owner was not in the vehicle at the time, and the owner has not received a prior release under RCW 46.55.113(3) or 46.55.120 (1)(a) (ii), prior to impounding the vehicle the officer ~~((shall))~~ will attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available.

(b) If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle may be impounded, but no suspended driver hold ~~((shall))~~ will be placed on the vehicle. If the driver is also the registered owner then the vehicle ~~((shall))~~ will be held until all outstanding penalties, fines, and forfeitures owed by him/her are satisfied. The driver/registered owner must present proof from a court of law that he/she has no outstanding penalties, fines, or forfeitures.

(c) If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has any prior convictions for violations of RCW 46.20.342 in the past five years, the vehicle may be held for thirty days.

(d) If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has no convictions for violations of

RCW 46.20.342 in the past five years, the vehicle may be held for thirty days.

(e) If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) in the past five years, the vehicle may be held for sixty days.

(f) If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) two or more times in the past five years, the vehicle may be held for ninety days.

(2) The release of all vehicles impounded under this ((WAC shall)) section will be governed by RCW 46.55.120. Commercially rented vehicles may be impounded, however no suspended driver holds ((shall)) will be placed upon these vehicles. The rental company ((shall)) will be notified by phone.

(3) A vehicle may be released prior to the hold period upon a showing of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or that the owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under RCW 46.55.120 (1)(a)(ii) or 46.55.113(3). Release ((shall)) will be denied in all other circumstances. All release requests ((shall)) will be in writing. Any denial or approval of a release ((shall)) will be in writing and ((shall)) will include factors considered by the impounding agency in reaching the decision.

~~((A uniform Washington state tow/impound and inventory record form is available through the office of the state printer.))~~

#### NEW SECTION

**WAC 204-96-020 Vehicle impound—DUI/PC with twelve hour hold.** When a driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504, the arresting officer will impound the vehicle in accordance with RCW 46.55.360.

#### NEW SECTION

**WAC 204-96-030 Impound form.** A uniform Washington state tow/impound and inventory record form established under RCW 46.55.075 as outlined in this chapter will be made available through the office of the state printer.

### WSR 11-23-135

#### PROPOSED RULES

#### WASHINGTON STATE PATROL

[Filed November 21, 2011, 4:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-057.

Title of Rule and Other Identifying Information: WAC 446-65-010 Commercial vehicle regulations.

Hearing Location(s): General Administration Building Auditorium, on December 27, 2011, at 11:15.

Date of Intended Adoption: January 2012.

Submit Written Comments to: CVEO 4 William Balcom, 210 11th Avenue S.W., Room G21, Olympia, WA 98504-2614, e-mail William.balcom@wsp.wa.gov, fax (360) 596-3829, by December 26, 2011.

Assistance for Persons with Disabilities: Contact Melissa Van Gorkom by December 23, 2011, (360) 596-4017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The federal motor carrier administration has implemented the comprehensive [comprehensive] safety analysis (CSA) program which requires additional parts of Title 49 C.F.R. that need to be adopted into WAC rule, which include but may not be limited to adopting C.F.R. 373, 376, 379, and 381. The addition of these C.F.R.s will provide statutory authority for conducting compliance reviews and will be the least burdensome alternative for compliance with C.F.R.

Reasons Supporting Proposal: The addition of these C.F.R.s will provide statutory authority for conducting compliance reviews and will be the least burdensome alternative for compliance with C.F.R.

Statutory Authority for Adoption: RCW 46.32.020.

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

Name of Agency Personnel Responsible for Drafting and Implementation: William Balcom, GA Building, P.O. Box 42614, Olympia, WA 98504, (360) 596-3807; and Enforcement: Washington State Patrol, GA Building, P.O. Box 42614, Olympia, WA 98504, (360) 596-3807.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change will not impact a small business.

A cost-benefit analysis is not required under RCW 34.05.328. Not a significant rule as defined in the RCW.

November 21, 2011

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 09-01-016, filed 12/5/08, effective 1/5/09)

**WAC 446-65-010 Transportation requirements.** (1) The Washington state patrol hereby adopts the following parts of Title 49 Code of Federal Regulations (CFR), and any amendments thereto for motor carriers used in intrastate or interstate commerce in their entirety:

(a) Part 40 Procedures for transportation workplace drug and alcohol testing programs.

(b) Part 325 Compliance with interstate motor carrier noise emission standards.

(c) Part 350 Commercial motor carrier safety assistance program.

(d) Part 355 Compatibility of state laws and regulations affecting interstate motor carrier operations.

(e) Part 365 Rules governing applications for operating authority.

(f) Part 367 Standards for registration with states.

(g) Part 372 Exemptions, commercial zones and terminal areas.

(h) Part 373 Receipts and bills.

(i) Part 376 Lease and interchange of vehicles.

(j) Part 379 Preservation of records.

(k) Part 380 Special training requirements.

~~((h))~~ (l) Part 381 Waivers, exemptions, and pilot programs.

(m) Part 382 Controlled substances and alcohol use and testing.

~~((i))~~ (n) Part 383 Compliance with commercial driver's license program.

~~((j))~~ (o) Part 385 Safety fitness procedures.

~~((k))~~ (p) Part 387 Minimum levels of financial responsibility for motor carriers.

~~((l))~~ (q) Part 390 General.

~~((m))~~ (r) Part 391 Qualification of drivers. Provided that 49 CFR 391 subpart D (Tests), and E (Physical Qualifications and Examinations) do not apply to motor carriers operating vehicles with gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating intrastate, and not used to transport hazardous materials in a quantity requiring placarding.

~~((n))~~ (s) Part 392 Driving of motor vehicles.

~~((o))~~ (t) Part 393 Parts and accessories necessary for safe operation.

~~((p))~~ (u) Part 395 Hours of service of drivers: Except if a company has:

(i) Drivers of commercial motor vehicle of any size, hauling logs from the point of production or driving in dump truck operations in intrastate commerce; or

(ii) Operators of intrastate property-carrying commercial motor vehicles that do not require a commercial drivers license to operate.

They are exempt from the requirements of CFR 395.3 (maximum driving time) and CFR 395.8 (record of duty status) and ineligible to use the provisions of CFR 395.1 (e)(1), (g) and (o) provided that:

(A) The driver must:

(I) Operate within a one hundred air-mile radius of the location where the driver reports to work and the driver must return to the work reporting location at the end of each duty tour;

(II) Have at least ten consecutive hours off duty separating each on-duty period;

(III) Not drive:

• More than twelve hours following at least ten hours off duty; or

• After the fourteenth hour after coming on duty on at least five days of any period of seven consecutive days; and

• After the sixteenth hour after coming on duty on no more than two days of any period of seven consecutive days; and

• After having been on duty for eighty hours in seven consecutive days if the employing motor carrier does not operate commercial motor vehicle every day of the week; or

• After having been on duty for ninety hours in eight consecutive days if the employing motor carrier operates commercial motor vehicle every day of the week; in any period of seven or eight consecutive days may end with the beginning of any off-duty period of twenty-four or more consecutive hours.

(B) The motor carrier that employs the driver must maintain and retain for a period of twelve months accurate and true time recordings showing:

(I) The time the driver reports for duty each day;

(II) The total number of hours the driver is on duty each day;

(III) The total number of hours the driver drives each day;

(IV) The time the driver is released from duty each day; and

(V) The total time the driver is driving and on duty for the preceding seven days.

~~((q))~~ (v) Part 396 Inspection, repair, and maintenance.

~~((r))~~ (w) Part 397 Transportation of hazardous materials; driving and parking rules.

(2) As provided in Part 395, exemption for agricultural transporters, the harvest dates are defined as starting February 1 and ending November 30 of each year.

(3) Agricultural operations exceptions:

(a) Agricultural operations transporting agricultural products other than Class 2 material (Compressed Gases), over roads, other than the National System of Interstate Defense Highways, between fields of the same farm, is excepted from Part 397 when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier.

(ii) The movement of the agricultural product conforms to all other laws in effect on or before July 1, 1998, and 49 CFR 173.24, 173.24a, and 173.24b.

(b) The transportation of an agricultural product to or from a farm within one hundred fifty miles of the farm, is excepted from the requirements of 49 CFR Part 172 subpart G (emergency response information) and H (training requirements) when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier;

(ii) The total amount of agricultural product being transported on a single vehicle does not exceed:

(A) Sixteen thousand ninety-four pounds of ammonium nitrate fertilizer properly classed as Division 5.1, PGIII, in bulk packaging; or

(B) Five hundred two gallons for liquids or gases, or five thousand seventy pounds for solids, of any other agricultural product;

(iii) The packaging conforms to the requirements of state law and is specifically authorized for transportation of the agricultural product by state law and such state law has been in effect on or before July 1, 1998; and

(iv) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of 49 CFR adopted in this section.

~~((s))~~ (c) Formulated liquid agricultural products in specification packaging of fifty-eight gallon capacity or less,

with closures manifolded to a closed mixing system and equipped with a positive dry disconnect device, may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

(4) Links to the CFRs are available on the Washington state patrol web site at [www.wsp.wa.gov](http://www.wsp.wa.gov). Copies of the CFRs may also be ordered through the United States Government Printing Office, 732 N. Capitol Street N.W., Washington, D.C. 20401.

**WSR 11-23-137**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed November 22, 2011, 8:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-01-171.

Title of Rule and Other Identifying Information: WAC 296-20-010 General information.

Hearing Location(s): Department of Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501, January 3, 2012, at 10 a.m.

Date of Intended Adoption: February 21, 2012.

Submit Written Comments to: Aaron Huff, P.O. Box 44322, Olympia, WA 98504-4322, e-mail [Aaron.Huff@lni.wa.gov](mailto:Aaron.Huff@lni.wa.gov), fax (360) 902-4249, by 5 p.m. on January 5, 2012.

Assistance for Persons with Disabilities: Contact Aaron Huff by December 16, 2011, TTY (360) 902-4259 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule making is to clarify when and under what circumstance a provider can charge an injured worker for "no show" or "missed appointments" related to the industrial injury on an approved claim.

Reasons Supporting Proposal: The Washington State Medical Association (WSMA) formally requested that L&I reconsider its missed appointment policy, and clarify rules. Department survey results indicated that many providers charge patients for missed appointments and want L&I's rules to be consistent with these policies.

Statutory Authority for Adoption: RCW 51.04.020.

Statute Being Implemented: RCW 51.04.020.

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

Name of Proponent: Washington state department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Aaron Huff, 7273 Linderson Way S.W., Tumwater, WA 98501, (360) 902-4259; Implementation and Enforcement: Janet Peterson, 7273 Linderson Way S.W., Tumwater, WA 98501, (360) 902-6699.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes

will not impose any costs on businesses; therefore, no small business economic impact statement is required.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule; therefore, no cost-benefit analysis is required.

November 22, 2011

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 07-08-088, filed 4/3/07, effective 5/23/07)

**WAC 296-20-010 General information.** (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries  
Health Services Analysis  
Interested Person's Mailing List for the Fee Schedules  
P.O. Box 44322  
Olympia, WA 98504-4322

As an alternative, interested persons may subscribe to the L&I medical provider news listserv. To subscribe, go to the department's web site at [www.lni.wa.gov](http://www.lni.wa.gov) and click on the link "Provider billing & payment." Look for the icon that says "Get E-mail Updates" and click on it.

The department or self-insurer will require the current version of the federal Health Care Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1<sup>st</sup>, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents  
United States Government Printing Office  
Washington, DC 20402  
(202)783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association  
Chicago, Illinois 60601  
(800)621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for making conversion factor cost of living adjustments is listed in WAC 296-20-132. The conversion factors are listed in WAC 296-20-135.

(5) ~~(No fee is payable)~~ L&I or self-insurers will not pay for a missed appointment(s) unless the appointment is for an examination arranged by the department or self-insurer.

(6) Other than missed appointments for examinations arranged by the department or self-insurer, a provider may bill an injured worker for a missed appointment if:

(a) The provider has a missed appointment policy that applies to all patients regardless of who the insurer is; and

(b) The provider notifies all patients of the missed appointment policy.

The implementation and enforcement of the policy is a matter between the provider and the injured worker. L&I is not responsible for the implementation and/or enforcement of the provider's policy.

(7) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. ~~(Nor can)~~ Except for missed appointment fees under subsection (6) of this section, the worker may not be charged a fee, either for interest or completion of forms, related to services (rendered) for the industrial injury or condition. (Refer to chapter 51.04 RCW-

~~(7))~~ (8) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar meth-

odology do not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

~~((8))~~ (9) Except as provided in WAC 296-20-055 (Limitation of treatment and temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

~~((9))~~ (10) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

~~((10))~~ (11) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send all provider bills and adjustments to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.

State fund claims have six digit numbers or a letter and five digits preceded by a letter other than "S," "T," or "W."

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V" or five digit numbers preceded by "VA," "VB," "VC," "VH," "VJ," or "VK."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers or a letter and five digits preceded by an "S," "T," or "W."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

~~((11))~~ (12) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

WSR 11-23-139

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed November 22, 2011, 9:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-075.

Title of Rule and Other Identifying Information: Chapter 478-156 WAC, Rules for the University of Washington residence halls and family housing apartments.

Hearing Location(s): Room 142, Gerberding Hall, UW Seattle Campus, on January 11, 2012, at 11:00 a.m.

Date of Intended Adoption: February 9, 2012.

Submit Written Comments to: Rebecca Goodwin Deardorff, University of Washington, Rules Coordination Office, Box 351210, Seattle, WA 98195-1210, e-mail rules@uw.edu, fax (206) 685-3825, by January 11, 2012.

Assistance for Persons with Disabilities: Contact disability services office by December 27, 2011, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to the University of Washington's rules for student housing are proposed to limit the scope of the rules to the Seattle campus, to update the types of housing now offered to students, and to streamline administrative practices.

Reasons Supporting Proposal: In addition to updating these rules according to the types of housing currently offered, these rules will be limited to the UW Seattle campus, allowing other student housing options to be developed for the UW Bothell and UW Tacoma campuses as the need arises.

Statutory Authority for Adoption: RCW 28B.15.031 and 28B.20.130.

Statute Being Implemented: RCW 28B.15.031 and 28B.20.130.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Pamela Schreiber, Director of Housing and Food Services, Room 305, Schmitz Hall, UW Seattle Campus, (206) 543-2430; and Implementation: Eric Godfrey, Vice President and Vice Provost for Student Life, Room 101, Gerberding Hall, UW Seattle Campus, (206) 543-0128.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. This chapter is not considered a significant legislative rule by the University of Washington.

November 22, 2011

Rebecca Goodwin Deardorff  
Director of Rules Coordination

## Chapter 478-156 WAC

### **RULES FOR THE UNIVERSITY OF WASHINGTON, SEATTLE CAMPUS RESIDENCE HALLS, SINGLE STUDENT AND FAMILY HOUSING APARTMENTS**

**AMENDATORY SECTION** (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

**WAC 478-156-010 Legal authority to enact.** Pursuant to the authority granted by RCW 28B.20.130 and 28B.15.031, the board of regents of the University of Washington has established the following rules governing the operation of the university's residence halls, single student and family housing apartments for the University of Washington, Seattle campus.

**AMENDATORY SECTION** (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

**WAC 478-156-011 Purpose of residence halls, single student and family housing apartments.** The residence halls, single student and family housing apartments exist to provide a conveniently located living environment for university students which will contribute to their educational development.

**AMENDATORY SECTION** (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

**WAC 478-156-013 Priority for residence halls((—Eligibility)), single student and family housing apartments.** Priority for use of residence hall space and single student apartments is given to enrolled students at the University of Washington(~~—Subject to space availability, the following may be granted residence privileges in the order of their applications after the needs of enrolled students have been fulfilled:~~

~~(1) Participants in university-sponsored short courses, conferences and state tests and examinations.~~

~~(2) Visiting scholars sponsored by academic departments.~~

~~(3) Students attending nearby community colleges.~~

~~(4) On a transient basis, visiting students from other institutions, visiting faculty members and guests of student residents.~~

~~(5) Other groups when approved by the committee on the use of university facilities), Seattle.~~

Priority for use of any remaining space is specific to each residence hall or apartment building. Up-to-date information pertaining to residence hall and single student apartment use priority is available on the University of Washington, Seattle housing and food services web site.

Priority for family housing apartments is given to students enrolled full-time at the University of Washington, Seattle three of the four quarters of an academic year and who are part of a married couple, a state registered domestic partnership (as defined in chapter 26.60 RCW), or are single parents with dependent children.

AMENDATORY SECTION (Amending WSR 97-24-048, filed 11/26/97, effective 12/27/97)

~~WAC 478-156-017 Assignment priority and eligibility. ((Applicants for university-owned family housing apartments who are judged eligible for assignment pursuant to WAC 478-156-016 are assigned in the following order of priority:~~

~~(1) Students who have special housing needs due to disability-related reasons (financial eligibility may be waived on a case-by-case basis for students with disabilities), students in the university's educational opportunity program, and others with extreme financial or personal hardship.~~

~~(2) Students who are single parents and have dependent children.~~

~~(3) Other students meeting financial eligibility criteria as set forth in WAC 478-156-016.~~

~~(4) Other students exceeding financial eligibility criteria.)~~ Assignment priority and eligibility for each unit size of university-owned housing is specific to the property and outlined on the University of Washington, Seattle housing and food services web site.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 478-156-015	Occupancy deadline.
WAC 478-156-016	Family housing apartments—Eligibility.
WAC 478-156-018	Unit size—Eligibility standards.

**WSR 11-23-150**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed November 22, 2011, 9:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-18-042.

Title of Rule and Other Identifying Information: Chapter 392-502 WAC, On-line learning—Approval of multidistrict on-line providers.

Hearing Location(s): Office of the Superintendent of Public Instruction, Old Capitol Building, 600 Washington S.E., Brouillet Conference Room, 4th Floor, Olympia, WA 98504-7200, on December 28, 2011, at 10:00 a.m.

Date of Intended Adoption: December 29, 2011.

Submit Written Comments to: Karl Nelson, 4507 University Way N.E., Suite 204, Seattle, WA 98105, e-mail karl.nelson@k12.wa.us, fax (206) 616-4595, by December 28, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by December 20, 2011, TTY (360) 664-3631 or (360) 725-6133.

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

- Align the rules with ESHB 2065, passed by the 2011 legislature.
- Remove the "district responsibility" section to eliminate duplication between chapter 28A.205 RCW and the rules.
- Adjust the approval process timeline so that, beginning with the 2012-13 school year, applications are available January 1. This timeline will shorten the time between approval notification and the effective date of approval and avoid the scheduling conflicts inherent in the current timeline.
- Add a formal process to modify the assurances, criteria, and approval process. Potential changes will be announced in October, any interested parties will have an opportunity to comment on the proposal. Final versions will be posted by January 1.
- Add clarity to the assurances, approval, and rescindment sections.

Reasons Supporting Proposal: Chapter 28A.250 RCW was amended by the 2011 legislature in ESHB 2065. This legislation contained several provisions that impact chapter 392-502 WAC, necessitating amendments to that rule. Among other things, ESHB 2065 expanded the scope of the on-line provider approval process to include single district on-line programs in addition to multidistrict providers. As a result, the rules need modification to accommodate this change. The revised rule will also include several updates to the rule based on two years of operational knowledge gained in conducting approval of multidistrict on-line providers.

Statutory Authority for Adoption: Chapter 28A.250 RCW.

Statute Being Implemented: Chapter 28A.250 RCW.

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Karl Nelson, 4507 University Way N.E., Suite 204, Seattle, WA 98105, (206) 616-9940; and Enforcement: Martin Mueller, 600 Washington Street S.E., Olympia, WA 98504, (360) 725-6175.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

November 21, 2011  
 Randy Dorn  
 State Superintendent  
 of Public Instruction

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-001 Authority.** The authority for these rules is ((chapter 34.05)) RCW 7.60.055, which authorizes the superintendent of public instruction to adopt rules



~~((regarding approval of multidistrict on-line)) defining minimum requirements and accountability for alternative learning experience on-line programs and RCW 28A.250.020, which authorizes the superintendent to adopt by rule criteria and processes for approving on-line providers.~~

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-005 Purposes.** The purpose of this chapter is to develop and implement criteria and processes for approving ~~((multidistrict))~~ on-line providers in order to further on-line learning opportunities for K-12 students in Washington state.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-010 Definitions.** As used in this chapter, the term:

(1) "Multidistrict on-line provider" means:

(a) A private or nonprofit organization that enters into a contract with a school district to provide on-line courses or programs to K-12 students from more than one school district;

(b) A private or nonprofit organization or a school district that enters into contracts with multiple school districts to provide on-line courses or programs to K-12 students from those districts; or

(c) Except as provided in (c)(i) and (ii) of this subsection, a school district that provides on-line courses or programs to students who reside outside the geographic boundaries of the school district.

(i) "Multidistrict on-line provider" does not include a school district on-line learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. ~~((If, at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district and are enrolled in a school district on-line program increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict on-line provider in the next approval cycle. The program can continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict on-line provider.))~~

(ii) "Multidistrict on-line provider" also does not include regional on-line learning programs that are jointly developed and implemented ~~((by))~~ through an interdistrict cooperative program between two or more school districts or between one or more school districts and an educational service district ((through an interdistrict cooperative program)), unless the annual average headcount of students who reside outside the geographic boundaries of those school districts and who are enrolled in the regional on-line program is ten percent or more of the total program enrollment headcount. Any agreement ((that addresses)) establishing such a program must address, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special edu-

~~cation, are provided to eligible students ((unless at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of those school districts and are enrolled in the regional on-line program increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict on-line provider in the next approval cycle. The program can continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict on-line provider)).~~

(2) "On-line course" means a course ~~((that))~~ in which:

(a) ~~((Is))~~ More than half of the course content is delivered ((primarily)) electronically using the internet or other computer-based methods; and

(b) ~~((Is taught by a teacher primarily))~~ More than half of the teaching is conducted from a remote location((-Students enrolled in)) through an on-line course ((may have access to the teacher synchronously, asynchronously,)) learning management system or ((both)) other on-line or electronic tools.

An on-line course may be delivered to students at school as part of the regularly scheduled school day. An on-line course also may be delivered to students, in whole or in part, independently from a regular classroom schedule ~~((, but such courses))~~. On-line courses delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.

(3) "On-line school program" means a school program that:

(a) ~~((Is))~~ Offers courses or grade-level course work that are delivered primarily electronically using the internet or other computer-based methods;

(b) ~~((Is))~~ Offers courses or grade-level course work that are taught by a teacher primarily from a remote location using on-line or other electronic tools. Students enrolled in an on-line program may have access to the teacher synchronously, asynchronously, or both;

(c) ~~((Delivers a part-time or full-time sequential program))~~ Offers a sequential set of on-line courses or grade-level course work that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(d) Has an on-line component of the program with on-line lessons and tools for student and data management.

An on-line school program may be delivered to students at school as part of the regularly scheduled school day. An on-line school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule ~~((, but such programs))~~. On-line programs delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.

(4) "On-line provider" means any provider of an on-line course or program, multidistrict on-line providers, all school district on-line learning programs, and all regional on-line learning programs.

(5) "Accrediting organizations" means the designated bodies identified by the superintendent of public instruction

after consultation with the Washington council for on-line learning and published on the superintendent of public instruction web site. Accrediting organizations are for providers to use to satisfy the accreditation qualification for being an approved (~~multidistrict~~) on-line provider.

~~((5))~~ "Approval" means the provider may offer courses/programs taught by Washington certified teachers to Washington students, and districts can claim the students for basic education funding starting with the 2011-12 school year.)

(6) For the purposes of this section, "primarily" is defined as more than half.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-020 (~~(Multidistrict)) On-line provider approval process and timeline.~~** (1) (~~(Multidistrict)) This section sets forth the process that on-line providers (as defined in WAC 392-502-010) must (complete the approval process as specified in this subsection in order to be eligible for listing as an) follow to be approved (multidistrict provider on) in accordance with RCW 28A.250.020. On-line providers must be approved by the (OSPI web site; and) superintendent of public instruction for (school) districts to (claim) collect state (basic education) funding (for students enrolled in those approved multidistrict on-line courses or programs beginning in the 2011-12 school year and), to the extent otherwise allowed by state law, for courses offered by those providers in accordance with WAC 392-502-080.~~

~~((When questions arise whether an entity is subject to approval as a multidistrict on-line course or program provider, the final determination will be made by the superintendent of public instruction taking into consideration the intent of the SSB 5410 legislation.~~

(2) The superintendent of public instruction shall make a first round of approval decisions by April 1, 2010, for those multidistrict on-line providers applying for approval. Subsequent approval decisions shall be made annually by November 1, 2010, and each subsequent year.

	Application for approval available	Application due date	Approval decisions made by
Initial Approval	December 31, 2009	January 31, 2010	April 1, 2010
Fall 2010 Approval Cycle	July 1, 2010	September 1, 2010	November 1, 2010
Subsequent Approvals	April 1	September 1	November 1

For each of the dates on the table above, the effective dates move to the subsequent business day if they fall on a holiday or weekend; all are 5:00 p.m. deadlines.

~~(3))~~ (2) Any multidistrict on-line provider that was approved by the digital learning commons or accredited by the Northwest (~~(association of accredited schools)) accreditation commission~~ before July 26, 2009, and meets the Washington state teacher certification requirements is exempt from the initial approval process until August 31, 2012, but must comply with the process for renewal of approvals and must

comply with approval requirements including the approval assurances and criteria.

~~((4))~~ (3) If at the end of (~~(a given))~~ the 2011-12 school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district or regional on-line learning program and are enrolled in a school district on-line program or regional on-line learning program increases to ten percent or more of the total on-line program enrollment headcount, the program (~~shall~~):

(a) (~~(Be required to))~~ Must seek approval (in the upcoming) prior to November (cycle in order to be eligible to claim state basic education funding the subsequent school year) 1, 2013.

(b) May continue operating during the 2012-13 school year (of the required review), but not the following school year unless approved as a multidistrict on-line provider.

~~((5) Multidistrict on-line providers seeking approval will)~~ (4) Prior to the 2012-13 school year, multidistrict on-line providers seeking approval must submit an application for approval. The application form is outlined on the superintendent of public instruction web site. The superintendent or his or her designee will review submitted applications for compliance with the assurances and designated approval criteria set forth in WAC 392-502-030 and must meet or exceed the acceptable defined score. Beginning with the 2013-14 school year, all on-line providers seeking approval must submit an application outlined on the superintendent of public instruction web site which will be reviewed for compliance with the requested assurances and designated approval criteria and must meet or exceed the acceptable defined score.

~~((6))~~ (5) The superintendent of public instruction (will notify provider applicants) makes decisions regarding approval of applications submitted pursuant to this chapter no later than November 1st of each year. An on-line provider's approval status takes effect the (results) beginning of the (review, including feedback about) school year following the date of the superintendent's approval of the on-line provider's application.

(6) For the 2011-12 school year, final modifications to the conditions for approval, required assurances (and), approval criteria (that were not in compliance), and application forms will appear on the superintendent of public instruction's web site by (April 1, 2010, for the initial round of approvals and by November 1, 2010, and each subsequent year after that) February 15, 2012.

(7) (~~(Any))~~ Beginning with the 2012-13 school year, any proposed modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction web site by (July 1, 2010, and April 1st each subsequent) October 1st of each year. The superintendent will accept feedback from on the proposed modifications from any interested parties prior to November 1st of each year. Any final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by January 1st of each year.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-030 Approval assurances and criteria.**

(1) ~~((In order to be approved, multidistrict on-line providers must meet))~~ This section sets forth the ((following)) assurances and criteria that on-line providers must meet to be approved under this chapter.

(a) To be approved, on-line providers must provide the following ((required)) assurances ((include, but are not limited)) to the superintendent of public instruction:

(i) ~~((Have accreditation))~~ The on-line provider is accredited through an accrediting body as defined in WAC 392-502-010 and agrees to maintain accredited status for the duration of the approval period.

(ii) ~~((Offer courses/programs eighty percent aligned to Washington state academic standards.~~

~~(iii) Demonstrate that all teachers are certificated in accordance with chapter 181-82 WAC.~~

~~(iv) For multidistrict)~~ Each course and program the on-line provider offers is aligned with at least eighty percent of the current applicable grade/subject area of Washington state standards. For courses with content that is not included in state standards, the on-line provider's courses are aligned with at least eighty percent of nationally accepted content standards set for the relevant subjects. On-line providers must submit information to the superintendent regarding the standards alignment and the standards aligned.

~~(iii) All instruction delivered to Washington state students is delivered by Washington state certificated teachers who are assigned to instruct courses in a manner which meets the "highly qualified" definition under the No Child Left Behind Act and in a manner which meets the requirements set forth in chapter 181-82 WAC.~~

~~(iv) For on-line providers that offer high school courses, the courses offered by the on-line provider must be eligible for high school credit ((per)) pursuant to WAC 180-51-050. ((However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.))~~

~~(v) Courses meet the credit/content requirements as outlined in any respective WACs.))~~

(v) All of the on-line provider's current and future courses in the following areas meet the credit/content requirements as provided for in WAC 392-410-120 (Washington state history and government requirements), WAC 392-410-135 (Physical education—Grade school and high school requirement), and WAC 392-410-140 (Sexual health education—Definition—Optional course or subject matter—Excusal of students).

(vi) All advanced placement courses offered by the on-line provider have ((all)) been approved ((via)) in accordance with the college board advanced placement course audit. For advanced placement courses not yet offered at the time of application, the on-line provider must assure that those courses will be approved by the college board prior to offering those courses to students.

(vii) The on-line provider's data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act ((FERPA)) of 1974, as amended.

(viii) The on-line provider's web systems and content meet ((specified)) accessibility conformance levels specified in the list of approved provider assurances on the office of superintendent of public instruction's web site.

(ix) The on-line provider provides all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) The on-line provider informs the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) The on-line provider upholds any pertinent federal or state laws, rules or regulations, in the delivery of the on-line courses or programs.

(xii) The ((applicant)) on-line provider retains responsibility for the quality of courses and content offered, regardless of any third-party contractual arrangements, partnerships or consortia, contributing to the content or delivery of the on-line courses or programs.

(xiii) ((Comply)) The on-line provider complies with the state assessment requirements including, but not limited to, the requirements of chapter 28A.655 RCW and WAC 392-121-182, as applicable.

(xiv) All of the provider's current and future career and technical education (CTE) courses are aligned to Washington state CTE program standards and have been approved by the office of superintendent of public instruction's CTE office. CTE courses must be taught by a Washington certificated teacher who is also CTE-certificated in the subject area of the course.

(xv) The on-line provider agrees to abide by any additional assurances required by the superintendent of public instruction.

(b) On-line providers must meet the following approval criteria ((categories must be met through)) by a preponderance of evidence submitted with the on-line provider's application ((at an acceptable level established by the superintendent of public instruction. Criteria shall include, but are not limited to)):

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the on-line learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) ((Mentor)) School-based support incorporating strategies and systems to allow ((them)) school-based staff to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and on-line instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

~~((2))~~ (x) The superintendent may require additional approval criteria pursuant to WAC 392-502-080.

(2) After review by the on-line learning advisory committee, the approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site (by December 31, 2009, and any modifications to those will appear by July 1, 2010, and by April 1st each subsequent year after review by the on-line learning advisory committee and the state board of education) on or before the date the application is made available.

(3) On-line provider's application(s) will be reviewed by (a committee) reviewers selected by the superintendent of public instruction for their experience and expertise. The (committee) reviewers will be provided orientations and training to review and score the (multidistrict) on-line provider applications using the approval criteria and scoring protocols.

(4) Prior to the 2013-14 school year, when developing local or regional on-line learning programs, school districts (shall) must incorporate the approval criteria developed by the superintendent of public instruction into the program design.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-040 Appeal of the superintendent's decision.** ~~((1) Provider applicants not approved may file an appeal to))~~ In the event the superintendent of public instruction denies an on-line provider's application for (reconsideration within) approval, the on-line provider may appeal the decision as follows:

(1) The on-line provider may file a revised application with the superintendent of public instruction no later than fifteen (business) days (of notification) after the on-line provider received notice of the denial. (The provider must provide specific, objective information that details the basis for their appeal.)

(2) The superintendent of public instruction (shall act upon the appeal and) will designate an official to review the on-line provider's revised application. The designated official will notify the applicant in writing whether the (appeal was) revised application is approved or denied within forty-five business days of the superintendent's receipt of the revised application. This deadline for acting on the (appeal) request may be extended by the superintendent of public instruction if additional information is required from the applicant.

(3) Decisions made by the superintendent of public instruction under WAC 392-502-020 may be appealed as provided for in RCW 34.05.514.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-050 Approval duration and conditions for continued approval.** Approvals will be for the four subsequent consecutive full school years.

(1) Grandfathered multidistrict on-line providers are granted their initial approval only until August 31, 2012, and must be approved in a renewal process prior to that date in order to continue offering their courses/school programs for the 2012-13 school year.

~~((Multidistrict))~~ On-line providers that have been approved (shall) must annually ((be required to)) provide the superintendent of public instruction information ((on)) regarding the following:

- (a) On-line provider's overall instructional program;
- (b) Content of individual on-line courses and on-line school programs;
- (c) Direct link to the on-line provider's web site;
- (d) Registration information for on-line learning programs and courses;
- (e) Teacher qualifications;
- (f) Student-to-teacher ratios as defined by the superintendent of public instruction;
- (g) Course completion and pass rates as defined by the superintendent of public instruction; and
- (h) Other evaluative and comparative information requested by the superintendent of public instruction.

(3) On-line providers must carry out the program/courses described in the approval application, abide by the assurances listed in WAC 392-502-030 and certified in the application process and maintain the approval criteria listed in WAC 392-502-030.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-060 Rescinding approvals.** (1) Approved ~~((multidistrict))~~ on-line providers that fail to comply with the conditions of approval in WAC 392-502-050, may be subject to rescindment of approval.

(2) Process for rescindment.

(a) The superintendent of public instruction or his or her designee will notify an on-line provider(s will be notified) when there is substantial evidence that ((they are)) the on-line provider is not meeting one or more of the approval conditions and that the superintendent is considering rescindment ((is being considered)). The ((letter shall)) notification will be in writing and will state the specific areas of concern.

(b) The on-line provider will be invited to submit a corrective action plan with a timeline to address the specific areas of concern. The corrective action plan must be submitted within fifteen business days of the superintendent's notification. If no corrective action plan is received by the superintendent of public instruction or his or her designee, the provider's approval will be rescinded.

(c) The superintendent of public instruction (shall) will consider the corrective action plan and ((make a determination)) determine whether ((it)) the plan satisfactorily addresses the specific areas of concern, whether additional actions are necessary, or whether the plan is substantially

incomplete and ~~((the))~~ approval ~~((should))~~ must be immediately rescinded. Before making this decision, the superintendent ~~((shall))~~ or his or her designee will provide an opportunity for the ~~((multidistrict))~~ on-line provider to clarify and adjust ~~((their))~~ its plan.

(d) Recognizing the serious nature of rescindment and its potential impact on students, districts and providers, the superintendent of public instruction or his or her designee will only rescind approvals if he or she finds that the multidistrict on-line provider is unwilling to take the necessary corrective actions to bring the courses/programs in compliance with the approval assurances and criteria. If the superintendent of public instruction or his or her designee determines that a multidistrict on-line provider's approval must be rescinded, the implementation of the rescindment shall, to the greatest extent possible, be timed to prevent unnecessary disruption to the education of the students.

(e) The superintendent of public instruction reserves the right to immediately rescind approval of any provider where conditions exist that jeopardize academic or fiscal integrity or compromise the health and safety of students or staff.

(3) Rescinded providers are responsible for communicating that change in status to their clients. The superintendent of public instruction or his or her designee will remove rescinded providers from the agency's web site.

(4) Rescinded providers are permitted to submit for reapproval during subsequent approval application periods.

AMENDATORY SECTION (Amending WSR 10-01-099, filed 12/17/09, effective 1/17/10)

**WAC 392-502-080 Approval required for state funding.** (1) Beginning with the 2011-12 school year, school districts may claim state basic education funding, to the extent otherwise allowed by state law, for students enrolled in on-line courses or programs only if the on-line courses or programs are:

(a) Offered by a multidistrict on-line provider approved by the superintendent of public instruction;

(b) Offered by a school district on-line learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional on-line learning program jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative or consortium program agreement in which fewer than ten percent of the program's students reside outside the school districts' geographic boundaries.

(2) Beginning with the 2013-14 school year, school districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in on-line courses or programs only if the on-line courses or programs are offered by an on-line provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(3) Criteria shall be established by the superintendent of public instruction to allow on-line courses that have not been

approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements. These criteria will be posted on the superintendent of public instruction web site by December 31, 2009, and any modifications to those will appear by July 1, 2010, and April 1st each subsequent year after review by the on-line learning advisory committee and the state board of education.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-502-011 District responsibility.

**WSR 11-23-153**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed November 22, 2011, 9:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-14-097.

Title of Rule and Other Identifying Information: The department is amending its procedural rules in chapter 388-02 WAC to provide notice to its customers of where they may find information regarding dispute resolution. The department is adopting a new rule section to tell customers that they may file petitions involving both DSHS and health care authority (HCA) in one appeal.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on December 27, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 28, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on December 27, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by December 6, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [jennisha.johnson@dshs.wa.gov](mailto:jennisha.johnson@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amends WAC 388-02-0005 to direct our customers to new chapter 388-823 [388-526] WAC, which contains procedural rules for hearings before the HCA. It is designed to inform our customers of the scope of our chapter, and the scope of the HCA chapter, so that they will know which department to contact for informal dispute resolution and other services.

New section, WAC 388-02-0387, implements RCW 74.09.741(5). It follows the governor's "no wrong door" policy and allows petitions for review that involve issues from the department and the HCA to be heard in one hearing. The rule text is identical to that of the new HCA procedural rule in WAC 388-823-0387 [388-526-0387].

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 74.09 RCW, RCW 74.09.741(5).

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marjorie Gray, P.O. Box 45803, Olympia, WA 98504-5803, (360) 664-6062.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These are procedural rules and are exempt under RCW 19.85.025(3) and 34.005.-310 [34.05.310] (4)(g)(i).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not "significant legislative rule" under RCW 34.05.328 (5)(c)(iii). Under RCW 34.05.-328 (5)(a)(i), a cost-benefit analysis is only required for significant legislative rules.

November 18, 2011

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0005 What is the purpose and scope of this chapter?** This chapter describes the general procedures that apply to the resolution of disputes between you and the various programs within the department of social and health services (DSHS). The rules of this chapter are intended to supplement for DSHS both the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules, chapter 10-08 WAC, adopted by the office of administrative hearings (OAH).

(1) This chapter:

(a) Establishes rules encouraging informal dispute resolution between DSHS and persons or entities who disagree with its actions;

(b) Regulates all hearings involving DSHS; and

(c) Consolidates most DSHS hearing procedural rules into one chapter.

(2) Nothing in this chapter is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if you have a hearing right, including the APA and DSHS program rules or laws.

(3) Specific DSHS program hearing rules prevail over the rules in this chapter.

(4) Rules encouraging informal dispute resolution between the health care authority and persons or entities who disagree with its actions, and regulating hearings for the medical services programs established under chapter 74.09 RCW are governed by chapter 388-526 WAC.

## NEW SECTION

**WAC 388-02-0387 How may you request that a hearing be consolidated or severed when multiple agencies are parties to the proceeding?** The following requirements apply only to adjudicative proceedings in which an applicant or recipient of medical services programs set forth in chapter 74.09 RCW seeks review of decisions made by more than one agency.

(1) When you file a single application for an adjudicative proceeding seeking review of decisions by more than one agency, this review shall be conducted initially in one adjudicative proceeding. The administrative law judge (ALJ) may sever the proceeding into multiple proceedings on the motion of any of the parties, when:

(a) All parties consent to the severance; or

(b) Either party requests severance without another party's consent, and the ALJ finds there is good cause for severing the matter and that the proposed severance is not likely to prejudice the rights of an appellant who is a party to any of the severed proceedings.

(2) If there are multiple adjudicative proceedings involving common issues or parties where there is one appellant and both the health care authority and the department are parties, upon motion of any party or upon his or her own motion, the ALJ may consolidate the proceedings if he or she finds that the consolidation is not likely to prejudice the rights of the appellant who is a party to any of the consolidated proceedings.

(3) If the ALJ grants the motion to sever the hearing into multiple proceedings or consolidate multiple proceedings into a single proceeding, the ALJ will send out an order and a new notice of hearing to the appropriate parties in accordance with WAC 388-02-0250.

## **WSR 11-23-155**

### **PROPOSED RULES**

### **DEPARTMENT OF**

### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services)

[Filed November 22, 2011, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-07-085.

Title of Rule and Other Identifying Information: These amendments to chapter 388-845 WAC, Home and community based waivers, will clarify current definitions in rule to promote consistent expectations for reporting and tracking of employment and day services. The program "person to person" will no longer exist as it currently resides in WAC. Clients that previously received "person to person" services may now qualify for "individual technical assistance" services which are not currently defined in our WAC. These changes were effective July 1, 2011.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions>.)

html or by calling (360) 664-6094), on January 10, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than January 11, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on January 10, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by December 27, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments are in response to Budget Bill Section 103(7) which mandated that the joint legislative audit and review committee (JLARC) examine the operations of employment and day services as provided by DSHS, DDD, and administered by the counties. JLARC provided to the legislature a description of how funds are used and the rates paid to vendors, and best practices the agency should use for the development of a consistent outcome-based contract for services provided under contracts with the counties. These amendments are proposed to implement the recommendations by JLARC which were provided to the legislature on or before September 1, 2010.

By not making these changes, there is a risk that the department can no longer collect federal funds on individual technical assistance services as the WAC will not specify that these services are covered under the home and community based waiver services and therefore not a federally reimbursable expense.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.030.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Meredith Kelly, 4450 10th Avenue S.E., Olympia, WA 98504, (360) 725-3524; Implementation: Kris Pederson, 4450 10th Avenue S.E., Olympia, WA 98504, (360) 725-3445; and Enforcement: Don Clintsman, 4450 10th Avenue S.E., Olympia, WA 98504, (360) 725-3421.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact was prepared as the amended rules proposed clarify language in the WAC and generally make the rules easier to understand by the consumer. Furthermore, there are no costs imposed on small businesses by these proposed rules. Based on RCW 19.85.025, the proposed rule making is exempt from preparing a small business economic impact statement.

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

(d) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(e) Rules the content of which is explicitly and specifically dictated by statute;

(f) Rules that set or adjust fees or rates pursuant to legislative standards; or

(g) Rules that adopt, amend, or repeal:

(i) A procedure, practice, or requirement relating to agency hearings; or

(ii) A filing or related process requirement for applying to an agency for a license or permit.

November 9, 2011

Katherine I. Vasquez

Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-24 issue of the Register.

## WSR 11-23-160

### PROPOSED RULES

### DEPARTMENT OF LICENSING

[Filed November 22, 2011, 10:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-083.

Title of Rule and Other Identifying Information: Amending WAC 308-124C-125 (9)(a); procedure for referring home inspectors to buyers or sellers.

Hearing Location(s): 2000 4th Avenue West, 2nd Floor Conference Room, Olympia, WA, on December 28, 2011, at 2:00 p.m.

Date of Intended Adoption: December 29, 2011.

Submit Written Comments to: Jerry McDonald, 2000 4th Avenue West, Olympia, WA 98507, e-mail jmcDonald@dol.wa.gov, fax (360) 570-7051, by December 21, 2011.

Assistance for Persons with Disabilities: Contact Sally Adams by December 21, 2011, TTY (360) 664-0116 or (360) 664-6526.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Required by statute. This will require designated brokers to establish procedures for their firm to use in referring home inspectors to clients.

Reasons Supporting Proposal: Consumer protection. This will help ensure that there is no collusion between the home inspector and a real estate licensee.

Statutory Authority for Adoption: RCW 18.85.041, 18.85.035.

Statute Being Implemented: RCW 18.85.035.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry McDonald, 2000 4th Avenue West, (360) 664-6525.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules are for individual licensees. The department of licensing and the real estate commission utilized stakeholders to participate in the rule-making process.

A cost-benefit analysis is not required under RCW 34.05.328. The department of licensing is exempt from the provisions of this chapter.

November 22, 2011  
Ben T. Shomshor  
Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-20-100, filed 9/30/10, effective 10/31/10)

**WAC 308-124C-125 Designated broker responsibilities.** Designated broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Ensuring accessibility of the firm's offices and records to the director's authorized representatives, and ensure that copies of required records are made available upon demand.

(4) Ensuring monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(5) Ensuring monthly trial balances are completed, accurate and up-to-date.

(6) Ensuring that the trial balance and the reconciliation show the account(s) are in balance.

(7) Ensuring policies or procedures are in place to account for safe handling of customer or client funds or property.

(8) Maintaining up-to-date written assignments of delegations of managing brokers and branch manager duties. The delegation agreement(s) must be signed by all parties to the agreement. Delegations must:

(a) Only be made to managing brokers licensed to the firm.

(b) Address duties of record maintenance, advertising, trust accounting, safe handling of customer/client funds and property, authority to bind, review of contracts, modify or terminate brokerage service contracts on behalf of the firm, supervision of brokers and managing brokers, and heighten supervision of brokers that are licensed for less than two years.

(c) Address hiring, transferring and releasing licensees to or from the firm.

(9) Maintaining, implementing and following a written policy that addresses:

(a) ~~((Referral of home inspectors in compliance with Washington Administrative Code-))~~ Procedures for referring a home inspector to buyers or sellers. The policy will address the consumer's right to freely pick a home inspector of the

buyer's or seller's choice and prevent any collusion between the home inspector and a real estate licensee. If a licensee refers a home inspector to a buyer or seller with whom they have or have had a relationship including, but not limited to, a business or familial relationship, then full disclosure of the relationship must be provided in writing prior to the buyer or seller using the services of the home inspector.

(b) Levels of supervision of all brokers, managing brokers and branch managers of the firm.

(c) Review of all brokerage service contracts involving any broker of the firm licensed for less than two years. Review must be completed by the designated broker or their delegated managing broker within five business days of mutual acceptance. Documented proof of review shall be maintained at the firm's record locations.

(10) Ensuring that all persons performing real estate brokerage services on behalf of the firm and the firm itself are appropriately licensed.

(11) Ensuring affiliated licensees submit their transaction documents to the designated broker, branch manager or delegated managing broker ~~((in a))~~ within two business days of mutual acceptance.

(12) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

## WSR 11-23-161

### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed November 22, 2011, 10:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-15-102.

Title of Rule and Other Identifying Information: WAC 230-15-040 Requirements for authorized card games.

Hearing Location(s): Grand Mound Great Wolf Lodge, 20500 Old Highway 99 S.W., Grand Mound, WA 98531, (360) 273-7718, on February 9 or 10, 2012, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: February 9 or 10, 2012. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail [SusanA@wsgc.wa.gov](mailto:SusanA@wsgc.wa.gov), fax (360) 486-3625, by February 1, 2012.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by February 1, 2012, TTY (360) 486-3637 or (360) 486-3453.

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

- Allow all players in the card room placing "envy" or "share the wealth" wagers to receive the prize even if



they are playing a different game (as long as the game they are playing has the "envy" wager). For example, a licensee could offer "envy" wagers on different games, such as Lucky Ladies, Fortune Pai Gow, Emperor's Challenge, etc. and anyone playing the "envy" wager would win the "envy" prize;

- Define "envy" and "share the wealth" as bonus features;
- Allow other game features that do not require a separate wager to be considered bonus features;
- Allow bonus features and progressive jackpots to be combined; and
- Allow progressive jackpot prizes for "envy" and "share the wealth" wagers.

Reasons Supporting Proposal: The petitioners state in their petition, that:

- The change is needed because of the increased number of approved games since the "envy" bonus was first introduced. From a handful of games provided by just a few companies approximately thirteen years ago, there are now one hundred forty-five approved card games in Washington represented by twenty-five companies. The increased variety of games in each establishment could better be supported if the "envy" or "share the wealth" bonus feature were permitted to extend to more than one approved game.
- By expanding the "envy" bonus feature across various approved card games, the petitioner believes the effect of this rule change will generate additional interest by players. This likely will result in increased activity and revenue for the commercial operators which in turn would protect or potentially expand employment and city, county and state tax revenues.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0282.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Rockland Ridge Corporation, a licensed gambling service supplier, and Galaxy Gaming, Inc., a licensed manufacturer, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees. Licensees are not required to expand the bonus envy wager feature.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

November 21, 2011  
Susan Arland  
Rules Coordinator

AMENDATORY SECTION (Amending Orders 656 and 656-A, filed 8/14/09 and 8/18/09, effective 9/14/09 and 9/18/09)

**WAC 230-15-040 Requirements for authorized card games.** (1) In order for a card game to be authorized, the card game must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than four "separate games" with a single hand of cards. However, no more than three of the "separate games" may offer a wager that exceeds five dollars each. ~~((We consider bonus features and progressive jackpots separate games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and))~~

(i) Separate game - Each individual objective to be achieved within a card game that requires a separate wager and results in a distinct and separate payout based upon that outcome. We consider "bonus features" and progressive jackpots separate games unless a separate wager is not required. Bonus features and progressive jackpots may be combined with other bonus features, progressive jackpots and prizes, provided that, the total amount of the wager does not exceed the limits established in this subsection and in WAC 230-15-140.

(ii) Bonus feature - An added prize and/or variation in the predetermined specific hand required to obtain a prize. Examples include, but are not limited to, "envy" and "share the wealth" bonus features; and

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

~~((An))~~ "Envy" ((or)) and "share the wealth" wagers ((which allows a player to receive a prize if another player wins a jackpot or odds-based wager)); or

(iii) A tip wager made on behalf of a dealer.

(4) Mini-Baccarat is authorized when operated in the manner explained for Baccarat in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Encyclopedia of Card Games*, or similar authoritative book on card games we have approved. However:

(a) Card game licensees may make immaterial modifications to the game; and

(b) Subsection (3) of this section does not apply; and

(c) The number of players is limited under WAC 230-15-055.

(5) A player's win or loss must be determined during the course of play of a single card game.

(6) "Envy" and "share the wealth" bonus features shall be operated as follows:

(a) If a player makes a wager that qualifies for an envy payout, they are entitled to receive a prize if another player's hand achieves the predetermined specific hand. If a player is playing more than one wagering area or if a hand they are playing is split into two or more hands and any one of their hands achieves the predetermined specific hand, their other hand(s) with a qualifying wager is (are) entitled to receive a prize.

(b) If a player makes a wager that qualifies for a share the wealth payout, they are entitled to receive a prize if either their hand(s) or another player's hand achieves the predetermined specific hand.

(c) "Envy" and "share the wealth" specific hand(s) may occur on different authorized card games and/or on multiple tables in a card room and all qualifying players are entitled to a prize. Prior to offering an "envy" or "share the wealth" prize on multiple games and/or tables, card game licensees must first submit to us for approval their internal controls detailing the methods and controls they will use to assure the integrity of these bonus features including, but not limited to:

(i) Identifying who has the winning hand;

(ii) How other tables offering "envy" or "share the wealth" wagers are notified that the prize has been won;

(iii) Identifying which payout table would be used to payout prizes on different games; and

(iv) Verifying winners of the "envy" or "share the wealth" prize throughout the card room.

## WSR 11-23-164

### PROPOSED RULES

### HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed November 22, 2011, 1:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-16-104.

Title of Rule and Other Identifying Information: Incapacity-based medical care services program (new); repealing WAC 388-418-0025, 388-505-0110, 182-556-0500, 388-800-0020, 388-800-0025, 388-800-0030, 388-800-0035, 388-800-0048, 388-800-0110, 388-800-0115, 388-800-0130, 388-800-0135, 388-800-0140, 388-800-0145, 388-800-0150, 388-800-0155, 388-800-0160 and 388-800-0165; amending WAC 182-500-0070, 388-505-0270 and 182-538-063; and creating WAC 182-503-0520, 182-503-0532, 182-503-0555, 182-503-0560, 182-504-0030, 182-504-0040, 182-504-0100, 182-504-0125, 182-506-0020, 182-508-0001, 182-508-0005, 182-508-0010, 182-508-0015, 182-508-0020, 182-508-0030, 182-508-0035, 182-508-0040, 182-508-0050, 182-508-0060, 182-508-0070, 182-508-0080, 182-508-0090, 182-508-0100, 182-508-0110, 182-508-0120, 182-508-0130, 182-508-0150,

182-508-0160, 182-508-0220, 182-508-0230, 182-508-0305, 182-508-0310, 182-508-0315, 182-508-0320, 182-508-0375, 182-509-0005, 182-509-0015, 182-509-0025, 182-509-0030, 182-509-0035, 182-509-0045, 182-509-0055, 182-509-0065, 182-509-0080, 182-509-0085, 182-509-0095, 182-509-0100, 182-509-0110, 182-509-0135, 182-509-0155, 182-509-0165, 182-509-0175, 182-509-0200, 182-509-0205, and 182-509-0210.

Hearing Location(s): Office Building 2, Auditorium, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson, a map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or directions can be obtained by calling (360) 664-6094), on December 27, 2011, at 11:00 a.m.

Date of Intended Adoption: Not sooner than December 28, 2011.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on December 27, 2011.

Assistance for Persons with Disabilities: Contact Kevin Sullivan, HCA rules coordinator, by December 13, 2011, TTY/TDD (800) 848-5429 or (360) 725-1344 or e-mail [kevin.sullivan@hca.wa.gov](mailto:kevin.sullivan@hca.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In meeting the requirements of E2SHB [ESHB] 2082, the agency is amending, repealing, and creating new rules to: (1) Eliminate references to General assistance—Unemployable and disability lifeline cash programs; and (2) establish the incapacity-based medical care services program.

Reasons Supporting Proposal: See Purpose statement.

Statutory Authority for Adoption: RCW 41.05.021, 74.09.035.

Statute Being Implemented: Chapter 36, Laws of 2011 (E2SHB [ESHB] 2082).

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

Name of Proponent: Health care authority, governmental.

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1344; Implementation and Enforcement: Dody McAlpine, P.O. Box 45504, Olympia, WA 98504-5534, (360) 725-9964.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee (JARRC) has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to health care authority rules unless requested by JARRC or applied voluntarily.

November 22, 2011

Kevin M. Sullivan

Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-500-0070 Medical assistance definitions—**  
**M. "Medicaid"** is the federal aid Title XIX program of the Social Security Act under which medical care is provided to eligible persons.

**"Medical assistance"** for the purposes of chapters 388-500 through 388-561 WAC, means the various healthcare programs administered by the agency or the agency's designee that provide federally funded and/or state-funded healthcare benefits to eligible clients.

**"Medical assistance administration (MAA)"** is the former organization within the department of social and health services authorized to administer the federally funded and/or state-funded healthcare programs that are now administered by the agency, formerly the medicaid purchasing administration (MPA), of the health and recovery services administration (HRSA).

**"Medical care services (MCS)"** means the limited scope of care medical program financed by state funds (~~and provided to disability lifeline and alcohol and drug addiction services clients~~) for clients who meet the incapacity criteria defined in chapter 182-508 WAC or who are eligible for the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program.

**"Medical consultant"** means a physician employed or contracted by the agency or the agency's designee.

**"Medical facility"** means a medical institution or clinic that provides healthcare services.

**"Medical institution"** See "institution" in WAC 388-500-0050.

**"Medically necessary"** is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or mal-function. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purposes of this section, "course of treatment" may include mere observation or, where appropriate, no medical treatment at all.

**"Medically needy (MN) or medically needy program (MNP)"** is the state- and federally funded healthcare program available to specific groups of persons who would be eligible as categorically needy (CN), except their monthly income is above the CN standard. Some long-term care clients with income and/or resources above the CN standard may also qualify for MN.

**"Medicare"** is the federal government health insurance program for certain aged or disabled persons under Titles II and XVIII of the Social Security Act. Medicare has four parts:

(1) **"Part A"** - Covers medicare inpatient hospital services, post-hospital skilled nursing facility care, home health services, and hospice care.

(2) **"Part B"** - The supplementary medical insurance benefit (SMIB) that covers medicare doctors' services, outpatient hospital care, outpatient physical therapy and speech

pathology services, home health care, and other health services and supplies not covered under Part A of medicare.

(3) **"Part C"** - Covers medicare benefits for clients enrolled in a medicare advantage plan.

(4) **"Part D"** - The medicare prescription drug insurance benefit.

**"Medicare assignment"** means the process by which a provider agrees to provide services to a medicare beneficiary and accept medicare's payment for the services.

**"Medicare cost-sharing"** means out-of-pocket medical expenses related to services provided by medicare. For medical assistance clients who are enrolled in medicare, cost-sharing may include Part A and Part B premiums, co-insurance, deductibles, and copayments for medicare services. See chapter 388-517 WAC for more information.

## Chapter 182-503 WAC

### PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE

#### NEW SECTION

**WAC 182-503-0520 Residency requirements for medical care services (MCS).** This section applies to medical care services (MCS).

(1) A resident is a person who:

(a) Currently lives in Washington and intends to continue living here permanently or for an indefinite period of time; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(2) A person does not need to live in the state for a specific period of time to be considered a resident.

(3) An MCS client can temporarily be out of the state for more than one month. If so, the client must provide the agency or the agency's designee with adequate information to demonstrate the intent to continue to reside in the state of Washington.

(4) A client may not receive comparable benefits from another state for the MCS program.

(5) A former resident of the state can apply for MCS while living in another state if:

(a) The person:

(i) Plans to return to this state;

(ii) Intends to maintain a residence in this state; and

(iii) Lives in the United States at the time of the application.

(b) In addition to the conditions in (a)(i), (ii), and (iii) of this subsection being met, the absence must be:

(i) Enforced and beyond the person's control; or

(ii) Essential to the person's welfare and is due to physical or social needs.

(c) See WAC 388-406-0035, 388-406-0040, and 388-406-0045 for time limits on processing applications.

(6) Residency is not a requirement for detoxification services.

(7) A person is not a resident when the person enters Washington state only for medical care. This person is not eligible for any medical program. The only exception is described in subsection (8) of this section.

(8) It is not necessary for a person moving from another state directly to a nursing facility in Washington state to establish residency before entering the facility. The person is considered a resident if they intend to remain permanently or for an indefinite period unless placed in the nursing facility by another state.

(9) A client's residence is the state:

(a) Where the parent or legal guardian, if appointed, for an institutionalized client twenty-one years of age or older, who became incapable of determining residential intent before reaching age twenty-one;

(b) Where a client is residing if the person becomes incapable of determining residential intent after reaching twenty-one years of age;

(c) Making a placement in an out-of-state institution; or

(d) For any other institutionalized individual, the state of residence is the state where the individual is living with the intent to remain there permanently or for an indefinite period.

(10) In a dispute between states as to which is a person's state of residence, the state of residence is the state in which the person is physically located.

#### NEW SECTION

**WAC 182-503-0532 Citizenship requirements for the medical care services (MCS) and ADATSA programs.** (1) To receive medical care services (MCS) benefits, an individual must be ineligible for the temporary assistance for needy families (TANF) or the Supplemental Security Income (SSI) program for a reason other than failure to cooperate with program requirements, and belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking; or

(e) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 182-503-0520.

(2) To receive ADATSA benefits, an individual must belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking; or

(e) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 182-503-0520.

#### NEW SECTION

**WAC 182-503-0555 Age requirement for MCS and ADATSA.** To be eligible for medical care services (MCS) or the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program an individual must be:

(1) Eighteen years of age or older; or

(2) For MCS only, if under eighteen years of age, a member of a married couple:

(a) Residing together; or

(b) Residing apart solely because a spouse is:

(i) On a visit of ninety days or less;

(ii) In a public or private institution;

(iii) Receiving care in a hospital, long-term care facility, or chemical dependency treatment facility; or

(iv) On active duty in the uniformed military services of the United States.

#### NEW SECTION

**WAC 182-503-0560 Impact of fleeing felon status on eligibility for medical care services (MCS).** This section applies to medical care services (MCS).

(1) An individual is considered a **fleeing felon** if the individual is fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony in the place from which the individual is fleeing.

(2) If the individual is a fleeing felon, or who is violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision, is not eligible for MCS benefits.

### Chapter 182-504 WAC

#### CERTIFICATION PERIODS AND CHANGE OF CIRCUMSTANCES

#### NEW SECTION

**WAC 182-504-0030 Medical certification periods for recipients of medical care services (MCS).** (1) The certification period for medical care services (MCS) begins:

(a) The date the agency or the agency's designee has enough information to make an eligibility decision; or

(b) No later than the forty-fifth day from the date the agency or the agency's designee received the application unless the applicant is confined in a Washington state public institution as defined in WAC 388-406-0005 (6)(a) on the forty-fifth day, in which case MCS coverage will start on the date of release from confinement.

(2) The certification period may or may not run concurrently with the incapacity review; and

(3) MCS coverage may end before the certification period ends when the incapacity review and financial review do not run concurrently.

#### NEW SECTION

**WAC 182-504-0040 Requirements for a midcertification review for medical care services (MCS).** (1) A **midcertification review (MCR)** is a form sent by the agency or the agency's designee to gather information about the MCS recipient's current circumstances. The answers provided are used to determine if the individual remains eligible for medical coverage.

(2) A recipient of MCS must complete a midcertification review unless the review period is six months or less.

(3) The review form is sent in the fifth month of the MCS certification or review period and must be completed by the tenth day of month six.

(4) If the individual is required to complete a midcertification review, it can be completed in one of the following ways:

(a) **Complete the form and return it to the DSHS office.** The MCR will be considered complete if all of the following steps are taken:

(i) The form is completed in full and any changes in circumstances for the household are indicated;

(ii) The form is signed and dated;

(iii) Proof is provided of any changes that are reported; and

(iv) The form is returned to DSHS by mail or in person along with any required proof by the due date on the review.

(b) **Complete the midcertification review over the phone.** The MCR will be considered complete over the phone if all of the following steps are taken:

(i) DSHS is contacted at the phone number on the review form and told about any changes in the household's circumstances;

(ii) Proof is provided of any changes that are reported, and DSHS may be able to verify some information over the phone; and

(iii) Required proof is returned to DSHS by the due date on the review.

(c) **Complete the application process for another program.** If the agency or the agency's designee approves an application for another program in the month the MCR is due, the application is used to complete the review when the same individual is head of household for the application and the midcertification review.

(5) If eligibility for medical coverage ends because of the information provided in the midcertification review, the change takes effect the next month even if this does not give ten days notice before the effective date of the termination.

(6) If the required midcertification review is not completed, medical coverage under the MCS program stops at the end of the month the review was due.

(7) **Late reviews.** If the midcertification review is completed after the last day of the month the review was due, the agency or the agency's designee will process the review as described below based on when the review is received:

(a) **Midcertification reviews that are completed by the last day of the month after the month the review was due:** The agency or the agency's designee determines the MCS recipient's eligibility for ongoing medical coverage. If the individual is determined to be eligible, coverage is reinstated based on the information in the review, unless there is a wait list due to an enrollment cap under WAC 182-508-0150;

(b) **Midcertification reviews completed after the last day of the month after the month the review was due:** The agency or the agency's designee treats the review as a request to send an application. In order to determine eligibility for ongoing MCS medical coverage, the application process as described in chapter 388-406 WAC must be completed.

#### NEW SECTION

**WAC 182-504-0100 Changes of circumstances—Changes that must be reported by a recipient of medical**

**care services (MCS).** (1) An individual who receives medical care services (MCS) coverage must report the following changes:

(a) A change in address;

(b) A change in who lives in the home with the individual;

(c) When the individual's total gross monthly income goes over the eligibility standards for MCS and ADATSA as listed in WAC 182-508-0230;

(d) When liquid resources are more than four thousand dollars;

(e) When the individual has a change in employment. The individual must notify the agency or the agency's designee if they:

(i) Get a job or change employers;

(ii) Change from part-time to full-time employment or from full-time to part-time employment;

(iii) Have a change in hourly wage rate or salary; or

(iv) Stop working.

(2) Changes listed in subsection (1) of this section must be reported to the agency or the agency's designee by the tenth day of the month following the month the change happened.

(3) When the change is a change in income, the date a change happened is the date the individual first received the income, e.g., the date of receipt of the first paycheck for a new job or the date of a paycheck showing a change in the amount of the individual's wage or salary.

(4) Changes that are reported late may result in receiving medical benefits to which the individual is not entitled.

#### NEW SECTION

**WAC 182-504-0125 Effect of changes on medical program eligibility.** (1) An individual continues to be eligible for medical assistance until the agency or the agency's designee completes a review of the individual's case record and determines the individual is ineligible for medical assistance or is eligible for another medical program. This applies to all individuals who, during a certification period, become ineligible for, or are terminated from, or request termination from:

(a) A categorically needy (CN) medicaid program;

(b) A program included in apple health for kids; or

(c) Any of the following cash grants:

(i) Temporary assistance for needy families (TANF);

(ii) Supplemental Security Income (SSI); or

(iii) Aged, blind, disabled (ABD) cash assistance. See WAC 388-434-0005 for changes reported during eligibility review.

(2) If CN medical coverage ends under one program and the individual meets all the eligibility requirements to be eligible under a different CN medical program, coverage is approved under the new program. If the individual's income exceeds the standard for CN medical coverage, the agency or the agency's designee considers eligibility under the medically needy (MN) program where appropriate.

(3) If CN medical coverage ends and the individual does not meet the eligibility requirements to be eligible under a different medical program, the redetermination process is

complete and medical assistance is terminated giving advance and adequate notice with the following exception:

(a) An individual who claims to have a disability is referred to the division of disability determination services for a disability determination if that is the only basis under which the individual is potentially eligible for medical assistance. Pending the outcome of the disability determination, medical eligibility is considered under the SSI-related medical program described in chapter 388-475 WAC.

(b) An individual with countable income in excess of the SSI-related CN medical standard is considered for medically needy (MN) coverage or medically needy (MN) with spend-down pending the final outcome of the disability determination.

(4) An individual who becomes ineligible for refugee cash assistance is eligible for continued refugee medical assistance through the eight-month limit, as described in WAC 388-400-0035(4).

(5) An individual who receives a TANF cash grant or family medical is eligible for a medical extension, as described under WAC 388-523-0100, when the cash grant or family medical program is terminated as a result of:

(a) An increase in earned income; or

(b) Collection of child or spousal support.

(6) Changes in income during a certification period affects eligibility for all medical programs except:

(a) Pregnant women's CN medical programs;

(b) A program included in apple health for kids, except as specified in subsection (5) of this section; or

(c) The first six months of the medical extension benefits described under chapter 388-523 WAC.

(7) A child who receives premium-based coverage under a program included in apple health for kids described in WAC 388-505-0210 and chapter 388-542 WAC must be redetermined for a nonpremium-based coverage when the family reports:

(a) Family income has decreased to less than two hundred percent federal poverty level (FPL);

(b) The child becomes pregnant;

(c) A change in family size; or

(d) The child receives SSI.

(8) An individual who receives SSI-related CN medical coverage and reports a change in earned income which exceeds the substantial gainful activity (SGA) limit set by Social Security Administration no longer meets the definition of a disabled individual as described in WAC 388-475-0050, unless the individual continues to receive a Title 2 cash benefit, e.g., SSDI, DAC, or DWB. The agency or the agency's designee redetermines eligibility for such an individual under the health care for workers with disabilities (HWD) program which waives the SGA income test. The HWD program is a premium-based program and the individual must approve the premium amount before the agency or the agency's designee can authorize ongoing CN medical benefits under this program.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-505-0110	Medical assistance coverage for adults not covered under family medical programs.
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AMENDATORY SECTION (Amending WSR 09-06-029, filed 2/24/09, effective 3/27/09)

**WAC 388-505-0270 When an involuntary commitment to Eastern or Western State Hospital is covered by medicaid.** (1) Individuals admitted to Eastern or Western State Hospital for inpatient psychiatric treatment may qualify for categorically needy (CN) medicaid coverage and (~~general assistance (GA))~~ aged, blind, disabled (ABD) cash benefits to cover their personal needs allowance (PNA).

(2) To be eligible under this program, individuals must:

(a) Be eighteen through twenty years of age or sixty-five years of age or older;

(b) Meet institutional status under WAC 388-513-1320;

(c) Be involuntarily committed to an inpatient treatment program by a court order under chapter 71.34 RCW;

(d) Meet the general eligibility requirements for the (~~GA~~) ABD cash program as described in WAC (~~388-400-0025~~) 388-400-0060;

(e) Have countable income below the payment standard described in WAC 388-478-0040; and

(f) Have countable resources below one thousand dollars. Individuals eligible under the provisions of this section may not apply excess resources towards the cost of care to become eligible. An individual with resources over the standard is not eligible for assistance under this section.

(3) (~~GA~~) ABD clients who receive active psychiatric treatment in Eastern or Western State Hospital at the time of their twenty-first birthday continue to be eligible for medicaid coverage until the date they are discharged from the facility or until their twenty-second birthday, whichever occurs first.

#### **Chapter 182-506 WAC**

#### **MEDICAL FINANCIAL RESPONSIBILITY**

#### NEW SECTION

**WAC 182-506-0020 Assistance units for medical care services (MCS).** (1) An adult who is incapacitated as defined in WAC 182-508-0010 can be in a medical care services assistance unit (AU).

(2) For an incapacitated adult who is married and lives with their spouse, the agency or the agency's designee decides who to include in the AU based on who is incapacitated:

(a) If both spouses are incapacitated as defined in WAC 182-508-0010, then the agency or the agency's designee includes both spouses in the AU.

(b) If only one spouse is incapacitated, then the agency or the agency's designee includes only the incapacitated

spouse in the AU. Some of the income of the spouse not in the AU is counted as income to the AU as determined according to WAC 388-450-0135.

### Chapter 182-508 WAC

## ADULT MEDICAL AND CHEMICAL DEPENDENCY

### NEW SECTION

**WAC 182-508-0001 Medical assistance coverage for adults not covered under family medical programs.** (1) An adult who does not meet the institutional status requirements as defined in WAC 388-513-1320 and who does not receive waiver services as described in chapter 388-515 WAC is considered for categorically needy (CN) coverage under this chapter. Individuals excluded from this section have rules applied to eligibility from chapter 388-513 WAC. Under this section an individual is eligible for CN coverage when the individual:

(a) Meets citizenship/immigrant, residency, and Social Security number requirements as described in WAC 388-503-0505; and

(b) Has CN countable income and resources that do not exceed the income and resource standards in WAC 388-478-0080; and

(c) Is sixty-five years of age or older, or meets the blind and/or disability criteria of the federal SSI program.

(2) An adult not meeting the conditions of subsection (1)(b) of this section is eligible for CN medical coverage if the individual:

(a) Is a current beneficiary of Title II of the Social Security Act (SSA) benefits who:

(i) Was a concurrent beneficiary of Title II and Supplemental Security Income (SSI) benefits;

(ii) Is ineligible for SSI benefits and/or state supplementary payments (SSP); and

(iii) Would be eligible for SSI benefits if certain cost-of-living (COLA) increases are deducted from the client's current Title II benefit amount:

(A) All Title II COLA increases under P.L. 94-566, section 503 received by the individual since their termination from SSI/SSP; and

(B) All Title II COLA increases received during the time period in (d)(iii)(A) of this subsection by the individual's spouse or other financially responsible family member living in the same household.

(b) Is an SSI beneficiary, no longer receiving a cash benefit due to employment, who meets the provisions of section 1619(b) of Title XVI of the SSA;

(c) Is a currently disabled individual receiving widow's or widower's benefits under section 202 (e) or (f) of the SSA if the disabled individual:

(i) Was entitled to a monthly insurance benefit under Title II of the SSA for December 1983;

(ii) Was entitled to and received a widow's or widower's benefit based on a disability under section 202 (e) or (f) of the SSA for January 1984;

(iii) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P.L. 98-21 was paid to the individual;

(iv) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the SSA;

(v) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent COLA increases provided under section 215(i) of the SSA, were disregarded;

(vi) Is fifty through fifty-nine years of age; and

(vii) Filed an application for medicaid coverage before July 1, 1988.

(d) Was receiving, as of January 1, 1991, Title II disabled widow or widower benefits under section 202 (e) or (f) of the SSA if the individual:

(i) Is not eligible for the hospital insurance benefits under medicare Part A;

(ii) Received SSI/SSP payments in the month before receiving such Title II benefits;

(iii) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(iv) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under section 202 (e) or (f) of the SSA, and any subsequent COLA increases provided under section 215(i) of the act were disregarded.

(e) Is a disabled or blind individual receiving Title II Disabled Adult Childhood (DAC) benefits under section 202(d) of the SSA if the individual:

(i) Is at least eighteen years old;

(ii) Lost SSI/SSP benefits on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(iii) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under section 202(d) of the DAC and any subsequent COLA increases provided under section 215(i) of the SSA were disregarded.

(f) Is an individual who:

(i) In August 1972, received:

(A) Old age assistance (OAA);

(B) Aid to blind (AB);

(C) Aid to families with dependent children (AFDC); or

(D) Aid to the permanently and totally disabled (APTD);

and

(ii) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(iii) Is eligible for OAA, AB, AFDC, SSI, or APRD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(3) An adult who does not meet the institutional status requirement as defined in WAC 388-513-1320 and who does not receive waiver services as described in chapter 388-515 WAC is considered for medically needy (MN) coverage under this chapter. Individuals excluded from this section have rules applied to eligibility from chapter 388-513 WAC. Under this section an individual is eligible for MN coverage when the individual:

(a) Meets citizenship/immigrant, residency, and Social Security number requirements as described in WAC 388-503-0505; and

(b) Has MN countable income that does not exceed the income standards in WAC 388-478-0080, or meets the excess

income spenddown requirements in WAC 388-519-0110; and

(c) Meets the countable resource standards in WAC 388-478-0070; and

(d) Is sixty-five years of age or older or meets the blind and/or disability criteria of the federal SSI program.

(4) MN coverage is available for an aged, blind, or disabled ineligible spouse of an SSI recipient. See WAC 388-519-0100 for additional information.

(5) An adult may be eligible for the alien emergency medical program as described in WAC 388-438-0110.

(6) An adult is eligible for the aged, blind, disabled program when the individual:

(a) Meets the requirements of the aged, blind, disabled program in WAC 388-400-0060 and 388-478-0033; or

(b) Meets the SSI-related disability standards but cannot get the SSI cash grant due to immigration status or sponsor deeming issues. Adults may be eligible for aged, blind, disabled cash benefits and CN medical coverage due to different sponsor deeming requirements.

(7) An adult is eligible for the state-funded medical care services (MCS) program when the individual:

(a) Meets the requirements under WAC 182-508-0005; or

(b) Meets the aged, blind, or disabled requirements of WAC 388-400-0060 and is a qualified alien as defined in WAC 388-424-0001 who is subject to the five-year bar as described in WAC 388-424-0006(3); or a nonqualified alien as defined in WAC 388-424-0001; or

(c) Meets the requirements of the ADATSA program as described in WAC 182-508-0320. MCS clients residing in counties designated as mandatory managed care plan counties must enroll in a plan.

#### NEW SECTION

**WAC 182-508-0005 Eligibility for medical care services.** (1) An individual is eligible for medical care services (MCS) benefits to the extent of available funds if the individual:

(a) Is incapacitated as required under WAC 182-508-0010 through 182-508-0120;

(b) Is at least eighteen years old or, if under eighteen, a member of a married couple;

(c) Is in financial need according to MCS' income and resource rules in chapter 182-509 WAC. The agency or the agency's designee determines who is in the individual's assistance unit according to WAC 182-506-0020;

(d) Meets the medical care services citizenship/alien status requirements under WAC 182-503-0532;

(e) Provides a Social Security number as required under WAC 388-476-0005;

(f) Resides in the state of Washington as required under WAC 182-503-0520;

(g) Reports changes of circumstances as required under WAC 182-504-0100; and

(h) Completes a midcertification review and provides proof of any changes as required under WAC 182-504-0040.

(2) An individual is not eligible for MCS benefits if the individual:

(a) Is eligible for temporary assistance for needy families (TANF) benefits.

(b) Refuses or fails to meet a TANF or SFA eligibility rule.

(c) Refuses to or fails to cooperate in obtaining federal aid assistance without good cause.

(d) Refuses or fails to participate in drug or alcohol treatment as required in WAC 182-508-0220.

(e) Is eligible for Supplemental Security Income (SSI) benefits.

(f) Is an ineligible spouse of an SSI recipient.

(g) Fails to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated the individual's benefits.

(h) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony as described in WAC 182-503-0560.

(3) An individual who resides in a public institution and meets all other requirements may be eligible for MCS depending on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) An individual may be eligible for MCS if the individual is:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and is sixty-five years of age or older.

(b) An individual is not eligible for MCS when the individual is in the custody of or confined in a public institution such as a state penitentiary or county jail, including placement:

(i) In a work release program; or

(ii) Outside of the institution including home detention.

(4) If an enrollment cap exists under WAC 182-508-0150, a waiting list of persons may be established.

#### NEW SECTION

**WAC 182-508-0010 Incapacity requirements for medical care services (MCS).** Eligibility for the medical care services (MCS) program is based on an individual being incapacitated from working. For an individual to receive MCS program benefits, the agency or the agency's designee must determine the individual is incapacitated.

**"Incapacitated"** means that an individual cannot be gainfully employed as a result of a physical or mental impairment that is expected to continue for at least ninety days from the date the individual applies.

**"Mental impairment"** means a diagnosable mental disorder. The agency or the agency's designee excludes any diagnosis of or related to alcohol or drug abuse or addiction.

**"Physical impairment"** means a diagnosable physical illness.

(1) The agency or the agency's designee determines the individual is incapacitated if the individual is:

(a) Eligible for payments based on Social Security Administration (SSA) disability criteria;

(b) Eligible for services from the division of developmental disabilities (DDD);



(c) Diagnosed as having mental retardation based on a full scale score of seventy or lower on the Wechsler adult intelligence scale (WAIS);

(d) At least sixty-four years and seven months old;

(e) Eligible for long-term care services from aging and disability services administration; or

(f) Approved through the progressive evaluation process (PEP).

(2) The agency or the agency's designee considers an individual to be incapacitated for ninety days after:

(a) The individual is released from inpatient treatment for a mental impairment if:

(i) The release from inpatient treatment was not against medical advice; and

(ii) There is no break in the individual's participation between inpatient and outpatient treatment of their mental impairment.

(b) The individual is released from a medical institution where the individual received long-term care services from the aging and disability services administration.

(c) The Social Security Administration stops the individual's Supplemental Security Income payments because the individual is not a citizen.

#### NEW SECTION

**WAC 182-508-0015 Determining if an individual is incapacitated.** When an individual applies for medical care services (MCS) program benefits, the individual must provide medical evidence to the agency or the agency's designee that shows the individual is unable to work.

If an individual is gainfully employed at the time of application for MCS, the agency or the agency's designee denies incapacity. "Gainful employment" means an individual is performing, in a regular and predictable manner, an activity usually done for pay or profit.

(1) The agency or the agency's designee doesn't consider work to be gainful employment when the individual is working:

(a) Under special conditions that go beyond the employer providing reasonable accommodation, such as in a sheltered workshop the agency or the agency's designee has approved; or

(b) Occasionally or part-time because the individual's impairment limits the hours the individual is able to work compared to unimpaired workers in the same job as verified by the individual's employer.

(2) The agency or the agency's designee determines if the individual is incapacitated when the individual:

(a) Applies for MCS benefits;

(b) Becomes employed;

(c) Obtains work skills by completing a training program; or

(d) The agency or the agency's designee receives new information that indicates the individual may be employable.

(3) Unless the individual meets the other incapacity criteria in WAC 182-508-0010, the agency or the agency's designee decides incapacity by applying the progressive evaluation process (PEP) to the medical evidence that the individual provides that meets WAC 182-508-0030. The PEP is the

sequence of seven steps described in WAC 182-508-0035 through 182-508-0110.

(4) If the individual has a physical or mental impairment and the individual is impaired by alcohol or drug addiction and does not meet the other incapacity criteria in WAC 182-508-0010, the agency or the agency's designee decides if the individual is eligible for MCS by applying the PEP described in WAC 182-508-0035 through 182-508-0110. The individual isn't eligible for aged, blind, or disabled benefits if the individual is incapacitated primarily because of alcoholism or drug addiction.

(5) In determining incapacity, the agency or the agency's designee considers only the individual's ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

#### NEW SECTION

**WAC 182-508-0020 Acceptable medical evidence.** The agency or the agency's designee accepts medical evidence from these sources:

(1) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

(a) A physician, which for medical care services (MCS) program purposes, includes:

(i) Medical doctor (M.D.);

(ii) Doctor of osteopathy (D.O.);

(iii) Doctor of optometry (O.D.) to evaluate visual acuity impairments;

(iv) Doctor of podiatry (D.P.) for foot disorders; and

(v) Doctor of dental surgery (D.D.S.) or doctor of medical dentistry (D.M.D.) for tooth abscesses or temporomandibular joint (TMJ) disorders.

(b) An advanced registered nurse practitioner (ARNP) for physical impairments that are within the ARNP's area of certification to treat;

(c) The chief of medical administration of the Veterans' Administration, or their designee, as authorized in federal law; or

(d) A physician assistant when the report is cosigned by the supervising physician.

(2) For a mental impairment, professionals licensed in Washington state or where the examination was performed:

(a) A psychiatrist;

(b) A psychologist;

(c) An advanced registered nurse practitioner certified in psychiatric nursing; or

(d) At the agency's or the agency's designee's discretion:

(i) A person identified as a mental health professional within the regional support network mental health treatment system provided the person's training and qualifications at a minimum include having a master's degree and two years of mental health treatment experience; or

(ii) The physician who is currently treating the individual for a mental impairment.

(3) **"Supplemental medical evidence"** means information from a health professional not listed in subsection (1) or (2) of this section and who can provide supporting medical evidence for impairments identified by any of the professionals listed in subsection (1) or (2) of this section. The agency includes as supplemental medical evidence sources:

(a) A health professional who has conducted tests on or provides ongoing treatment to the individual, such as a physical therapist, chiropractor, nurse, physician assistant;

(b) Workers at state institutions and agencies who are not health professionals and are providing or have provided medical or health-related services to the individual; or

(c) Chemical dependency professionals (CDPs) when requesting information on the effects of alcohol or drug abuse.

NEW SECTION

**WAC 182-508-0030 Required medical evidence.** An individual must provide medical evidence that clearly shows if that individual has an impairment and how that impairment prevents the individual from being capable of gainful employment. Medical evidence must be in writing and be clear, objective and complete.

(1) Objective evidence for physical impairments means:

(a) Laboratory test results;

(b) Pathology reports;

(c) Radiology findings including results of X rays and computer imaging scans;

(d) Clinical finding including, but not limited to, ranges of joint motion, blood pressure, temperature or pulse; and documentation of a physical examination; or

(e) Hospital history and physical reports and admission and discharge summaries; or

(f) Other medical history and physical reports related to the individual's current impairments.

(2) Objective evidence for mental impairments means:

(a) Clinical interview observations, including objective mental status exam results and interpretation.

(b) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

(c) Hospital, outpatient and other treatment records related to the individual's current impairments.

(d) Testing results, if any, including:

(i) Description and interpretation of tests of memory, concentration, cognition or intelligence; or

(ii) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.

(3) Medical evidence sufficient for an incapacity determination must be from a medical professional described in WAC 182-508-0020 and must include:

(a) A diagnosis for the impairment, or impairments, based on an examination performed within twelve months of application;

(b) A clear description of how the impairment relates to the individual's ability to perform the work-related activities listed in WAC 182-508-0015(5);

(c) Documentation of how the impairment, or impairments, is currently limiting the individual's ability to work based on an examination performed within the ninety days of the date of application or the forty-five days before the month of incapacity review; and

(d) Facts in addition to objective evidence to support the medical provider's opinion that the individual is unable to be gainfully employed, such as proof of hospitalization.

(4) When making an incapacity decision, the agency or the agency's designee does not use the individual's report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.

(5) The agency or the agency's designee doesn't use symptoms related to substance abuse or a diagnosis of addiction or chemical dependency when determining incapacity.

(6) The agency or the agency's designee considers diagnoses that are independent of addiction or chemical dependency when determining incapacity.

(7) The agency or the agency's designee determines the individual has a diagnosis that is independent of addiction or chemical dependency if the impairment will persist at least ninety days after the individual stops using drugs or alcohol.

(8) If the individual can't obtain medical evidence of an impairment that prevents the individual from working without cost to the individual and the individual meets the eligibility conditions other than incapacity in WAC 182-508-0005, the agency pays the costs to obtain objective evidence based on the agency's published payment limits and fee schedules.

(9) The agency or the agency's designee decides incapacity based solely on the objective information it receives. The agency or the agency's designee is not obligated to accept a decision that the individual is incapacitated or unemployable made by another agency or person.

(10) The agency or the agency's designee can't use a statement from a medical professional to determine that the individual is incapacitated unless the statement is supported by objective medical evidence.

NEW SECTION

**WAC 182-508-0035 How severity ratings of impairment are assigned.** (1) **"Severity rating"** means a rating of the extent of the individual's incapacity, and how severely it impacts the individual's ability to perform the basic work activities.

Severity ratings are assigned in Steps II through IV of the PEP. The following chart provides a description of levels of limitations on work activities and the severity ratings that would be assigned to each.

	<b>Effect on Work Activities</b>	<b>Degree of Impairment</b>	<b>Numerical Value</b>
(a)	There is no effect on performance of basic work-related activities.	None	1

Effect on Work Activities	Degree of Impairment	Numerical Value
(b) There is no significant effect on performance of basic work-related activities.	Mild	2
(c) There are significant limits on performance of at least one basic work-related activity.	Moderate	3
(d) There are very significant limits on performance of at least one basic work-related activity.	Marked	4
(e) The individual is unable to perform at least one basic work-related activity.	Severe	5

(2) The agency or the agency's designee uses the description of how the individual's condition impairs their ability to perform work activities given by the medical evidence provider to establish severity ratings when the impairments are supported by, and consistent with, the objective medical evidence.

(3) A contracted doctor reviews the individual's medical evidence and the ratings assigned to the individual's impairment when:

(a) The medical evidence provider describes functional limitations consistent with at least a moderate physical or mental health impairment;

(b) The individual's impairment has lasted, or is expected to last, twelve months or more; and

(c) The individual was not previously determined to meet aged, blind, or disabled under WAC 388-400-0060.

(4) The contracted doctor reviews the individual's medical evidence, severity ratings, and functional assessment to determine whether:

(a) The medical evidence is objective and sufficient to support the findings of the provider;

(b) Description of impairments is supported by the medical evidence; and

(c) Severity rating and assessment of functional limitations assigned by the agency or the agency's designee are consistent with the medical evidence.

(5) If the medical evidence provider's description of the individual's impairments is not consistent with other objective evidence the agency or the agency's designee has obtained, the agency or the agency's designee takes the following action:

(a) If the individual's limitations are more severe than the impairments described, the agency or the agency's designee assigns a higher severity rating; or

(b) If the individual's limitations are less severe than the impairments described, the agency or the agency's designee assigns a lower severity rating; and

(c) The agency or the agency's designee gives clear and convincing reasons for rejecting the medical evidence provider's opinion.

NEW SECTION

**WAC 182-508-0040 PEP Step I—Review of medical evidence required for eligibility determination.** When the agency or the agency's designee receives the individual's medical evidence, the agency or the agency's designee reviews it to see if it is sufficient to decide whether the individual's circumstances meet incapacity requirements.

(1) The agency or the agency's designee requires a written medical report to determine incapacity. The report must:

(a) Contain sufficient information as described under WAC 182-508-0030;

(b) Be written by an authorized medical professional described in WAC 182-508-0020;

(c) Document the existence of a potentially incapacitating condition; and

(d) Indicate an impairment is expected to last ninety days or more from the application date.

(2) If the information received isn't clear, the agency or the agency's designee may require more information before the agency or the agency's designee decides the individual's ability to be gainfully employed. As examples, the agency or the agency's designee may require the individual to get more medical tests or be examined by a medical specialist.

(3) The agency or the agency's designee denies incapacity if:

(a) There is only one impairment and the severity rating is less than three;

(b) A reported impairment isn't expected to last ninety days (twelve weeks) or more from the date of application;

(c) The only impairment supported by objective medical evidence is drug or alcohol addiction; or

(d) The agency or the agency's designee doesn't have clear and objective medical evidence to approve incapacity.

NEW SECTION

**WAC 182-508-0050 PEP Step II—Determining the severity of mental impairments.** If the individual is diagnosed with a mental impairment by a professional described in WAC 182-508-0020, the agency or the agency's designee uses information from the provider to determine how the impairment limits work-related activities.

(1) The agency or the agency's designee reviews the following psychological evidence to determine the severity of the individual's mental impairment:

(a) Psychosocial and treatment history records;

(b) Clinical findings of specific abnormalities of behavior, mood, thought, orientation, or perception;

(c) Results of psychological tests; and

(d) Symptoms observed by the examining practitioner that show how the individual's impairment affects their ability to perform basic work-related activities.

(2) The agency or the agency's designee excludes diagnosis and related symptoms of alcohol or substance abuse or addiction.

(3) If the individual is diagnosed with mental retardation, the diagnosis must be based on the Wechsler adult intelligence scale (WAIS). The following test results determine the severity rating:

Intelligence Quotient (IQ) Score	Severity Rating
85 or above	1
71 to 84	3
70 or lower	5

(4) If the individual is diagnosed with a mental impairment with physical causes, the agency or the agency's designee assigns a severity rating based on the most severe of the following four areas of impairment:

- (a) Short term memory impairment;
- (b) Perceptual or thinking disturbances;
- (c) Disorientation to time and place; or
- (d) Labile, shallow, or coarse affect.

(5) The agency or the agency's designee bases the severity of an impairment diagnosed as a mood, thought, memory, or cognitive disorder on a clinical assessment of the intensity and frequency of symptoms that:

- (a) Affect the individual's ability to perform basic work-related activities; and
- (b) Are consistent with a diagnosis of a mental impairment as listed in the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition (DSM-IV).

(6) The agency or the agency's designee bases the severity rating for a functional mental impairment on accumulated severity ratings for the symptoms in subsection (5)(a) of this section as follows:

Symptom Ratings or Condition	Severity Rating
(a) The individual is diagnosed with a functional disorder with psychotic features;	Moderate (3)
(b) The individual has had two or more hospitalizations for psychiatric reasons in the past two years;	
(c) The individual has had more than six months of continuous psychiatric inpatient or residential treatment in the past two years;	
(d) The objective evidence and global assessment of functional score are consistent with a significant limitation on performing work activities.	

Symptom Ratings or Condition	Severity Rating
(e) The objective evidence and global assessment of functioning score are consistent with very significant limitations on ability to perform work activities.	Marked (4)
(f) The objective evidence and global assessment of functioning score are consistent with the absence of ability to perform work activities.	Severe (5)

(7) If the individual is diagnosed with any combination of mental retardation, mental impairment with physical causes, or functional mental impairment, the agency or the agency's designee assigns a severity rating as follows:

Condition	Severity Rating
(a) Two or more disorders with moderate severity (3) ratings; or	Marked (4)
(b) One or more disorders rated moderate severity (3), and one rated marked severity (4).	
(c) Two or more disorders rated marked severity (4).	Severe (5)

(8) The agency or the agency's designee denies incapacity when the individual hasn't been diagnosed with a significant physical impairment and the individual's overall mental severity rating is one or two;

(9) The agency or the agency's designee approves incapacity when the individual has an overall mental severity rating of severe (5).

NEW SECTION

**WAC 182-508-0060 PEP Step III—Determining the severity of physical impairments.** The agency or the agency's designee must decide if the individual's physical impairment is serious enough to limit the individual's ability to be gainfully employed. "Severity of a physical impairment" means the degree that an impairment restricts the individual from performing basic work-related activities (see WAC 182-508-0015). Severity ratings range from one to five, with five being the most severe. The agency or the agency's designee will assign severity ratings according to the table in WAC 182-508-0035.

(1) The agency or the agency's designee assigns to each physical impairment a severity rating that is supported by medical evidence.

(2) If the individual's physical impairment is rated two, and there is no mental impairment or a mental impairment that is rated one, the agency or the agency's designee denies incapacity.

(3) If the individual's physical impairment is consistent with a severity rating of five, the agency or the agency's designee approves incapacity.

**NEW SECTION**

**WAC 182-508-0070 PEP Step IV—Determining the severity of multiple impairments.** (1) If an individual has more than one impairment, the agency or the agency's designee decides the overall severity rating by deciding if the individual's impairments have a combined effect on their ability to be gainfully employed. Each diagnosis is grouped by affected organ or function into one of thirteen "body systems." The thirteen body systems consist of:

- (a) Musculo-skeletal;
- (b) Special senses and speech;
- (c) Respiratory;
- (d) Cardiovascular;
- (e) Digestive;
- (f) Genito-urinary;
- (g) Hemic and lymphatic;
- (h) Skin;
- (i) Endocrine and obesity;
- (j) Neurological;
- (k) Mental disorders;
- (l) Neoplastic; and
- (m) Immune systems.

(2) The agency or the agency's designee follows these rules when there are multiple impairments:

- (a) The agency or the agency's designee groups each diagnosis by body system.
- (b) When an individual has two or more diagnosed impairments that limit work activities, the agency or the agency's designee assigns an overall severity rating as follows:

Client Condition	Severity Rating
(i) All impairments are in the same body system, are rated two and there is no cumulative effect on basic work activities.	2
(ii) All impairments are in the same body system, are rated two and there is a cumulative effect on basic work activities.	3
(iii) All impairments are in different body systems, are rated two and there is a cumulative effect on basic work activities.	3
(iv) Two or more impairments are in different body systems and are rated three.	4
(v) Two or more impairments are in different body systems; one is rated three and one is rated four.	4
(vi) Two or more impairments in different body systems are rated four.	5

(c) The agency or the agency's designee denies incapacity when the overall severity rating is two.

(d) The agency or the agency's designee approves incapacity when the overall severity rating is five.

**NEW SECTION**

**WAC 182-508-0080 PEP Step V—Determining level of function of mentally impaired individuals in a work environment.** If an individual has a mental impairment, the agency or the agency's designee evaluates the individual's cognitive and social functioning in a work setting. "Functioning" means an individual's ability to perform typical tasks that would be required in a routine job setting and the individual's ability to interact effectively while working.

(1) The agency or the agency's designee evaluates cognitive and social functioning by assessing the individual's ability to:

- (a) Understand, remember, and persist in tasks by following simple instructions of one or two steps.
- (b) Understand, remember, and persist in tasks by following complex instructions of three or more steps.
- (c) Learn new tasks.
- (d) Perform routine tasks without undue supervision.
- (e) Be aware of normal hazards and take appropriate precautions.
- (f) Communicate and perform effectively in a work setting with public contact.
- (g) Communicate and perform effectively in a work setting with limited public contact.
- (h) Maintain appropriate behavior in a work setting.

(2) The agency or the agency's designee approves incapacity when it has objective medical evidence, including a mental status exam (MSE) per WAC 182-508-0050, that demonstrates the individual is:

- (a) At least moderately impaired in their ability to understand, remember, and persist in tasks following simple instructions, and at least moderately limited in their ability to:
    - (i) Learn new tasks;
    - (ii) Be aware of normal hazards and take appropriate precautions; and
    - (iii) Perform routine tasks without undue supervision;
  - (b) At least moderately impaired in the ability to understand, remember, and persist in task following complex instructions; and
  - (c) Markedly impaired in the ability to learn new tasks, be aware of normal hazards and take appropriate precautions, and perform routine tasks without undue supervision.
- (3) The agency or the agency's designee approves incapacity when the individual is moderately (rated three) impaired in their ability to:
- (a) Communicate and perform effectively in a work setting with public contact;
  - (b) Communicate and perform effectively in a work setting with limited public contact; and
  - (c) Markedly (rated four) impaired in their ability to maintain appropriate behavior in a work setting.

NEW SECTION

**WAC 182-508-0090 PEP Step VI—Determining level of function of physically impaired individuals in a work environment.** In Step VI of the PEP, the agency or the agency's designee reviews the medical evidence provided and determines how an individual's physical impairment prevents that individual from working. This determination is then used in Steps VII and VIII of the PEP to determine the individual's ability to perform either work they have done in the past or other work.

(1) **"Exertion level"** means having strength, flexibility, and mobility to lift, carry, stand or walk as needed to fulfill job duties in the following work levels. For this section, "occasionally" means less than one third of the time and "frequently" means one third to two thirds of the time.

The following table is used to determine an individual's exertion level. Included in this table is a strength factor, which is an individual's ability to perform physical activities, as defined in Appendix C of the *Dictionary of Occupational Titles* (DOT), Revised Edition, published by the U.S. Department of Labor as posted on the Occupational Information Network (O.\*NET).

<b>If an individual is able to:</b>	<b>Then the individual is assigned this exertion level</b>
(a) Lift no more than two pounds or unable to stand or walk.	Severely limited
(b) Lift ten pounds maximum and frequently lift or carry light-weight articles. Walking or standing only for brief periods.	Sedentary
(c) Lift twenty pounds maximum and frequently lift or carry objects weighing up to ten pounds. Walk six out of eight hours per day or stand during a significant portion of the work-day. Sitting and using pushing or pulling arm or leg movements most of the day.	Light
(d) Lift fifty pounds maximum and frequently lift or carry up to twenty-five pounds.	Medium
(e) Lift one hundred pounds maximum and frequently lift or carry up to fifty pounds.	Heavy

(2) **"Exertionally related limitation"** means a restriction in mobility, agility or flexibility in the following twelve activities: Balancing, bending, climbing, crawling, crouching, handling, kneeling, pulling, pushing, reaching, sitting, and stooping. If an individual has exertionally related limitations, then the agency or the agency's designee considers them in determining the individual's ability to work.

(3) **"Functional physical capacity"** means the degree of strength, agility, flexibility, and mobility an individual can apply to work-related activities. The agency or the agency's designee considers the effect of the physical impairment on the ability to perform work-related activities when the physical impairment is assigned an overall severity rating of three or four. The agency or the agency's designee determines functional physical capacity based on the individual's exertional, exertionally related and nonexertional limitations. All limitations must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(4) **"Nonexertional physical limitation"** means a restriction on work activities that does not affect strength, mobility, agility, or flexibility. Examples are:

(a) Environmental restrictions which could include, among other things, an individual's inability to work in an area where they would be exposed to chemicals; and

(b) Workplace restrictions, such as impaired hearing or speech, which would limit the types of work environments an individual could work in.

NEW SECTION

**WAC 182-508-0100 PEP Step VII—Evaluating a client's capacity to perform relevant past work.** If the individual's overall severity rating is moderate (three) or marked (four) at this stage of the PEP and the agency or the agency's designee has not approved or denied the individual's application, then the agency or the agency's designee will decide if the individual can do the same or similar work as they have done in the past. The agency or the agency's designee looks at the individual's current physical and/or mental limitations from cognitive, social, and vocational factors to make this decision. Vocational factors are education, relevant work history, and age.

(1) The agency or the agency's designee evaluates education in terms of formal schooling or other training that would enable the individual to meet job requirements. Education is classified as:

<b>If the individual:</b>	<b>Then the individual's education level is</b>
(a) Can't read or write a simple communication, such as two sentences or a list of items.	Illiterate
(b) Has no formal schooling or vocational training beyond the eleventh grade; or	Limited education
(c) Has participated in special education in basic academic classes of reading, writing, or mathematics in high school.	
(d) Has received a high school diploma or general equivalency degree (GED); or	High school and above level of education

If the individual:	Then the individual's education level is
(e) Has received skills training and was awarded a certificate, degree or license.	

(2) The agency or the agency's designee evaluates the individual's work experience to determine if they have relevant past work. "Relevant past work" means work that:

(a) Is defined as gainful employment per WAC 182-508-0015;

(b) Has been performed in the past five years; and

(c) The individual performed long enough to acquire the knowledge and skills to continue performing the job. The individual must meet the specific vocational preparation level as defined in Appendix C of the *Dictionary of Occupational Titles*.

(3) For each relevant past work situation that the individual had, the agency or the agency's designee determines:

(a) The exertion or skill requirements of the job; and

(b) Current cognitive, social, or nonexertion factors that significantly limit the individual's ability to perform past work.

(4) After considering vocational factors, the agency or the agency's designee approves or denies incapacity when the individual has:

(a) The physical and mental ability to perform past work, and there is no significant cognitive, social or exertion limitation that would prevent the individual from performing past work; or

(b) Recently acquired specific work skills through completion of schooling or training, for jobs within the individual's current physical or mental capacities.

(5) The agency or the agency's designee approves incapacity when the individual is fifty-five years of age or older and doesn't have the physical or mental ability to perform past work.

**NEW SECTION**

**WAC 182-508-0110 PEP Step VIII—Evaluating a client's capacity to perform other work.** If the individual decides they cannot do work that they've done before, then the agency or the agency's designee decides if the individual can do any other work.

(1) The agency or the agency's designee approves incapacity if the individual has a physical impairment and meets the vocational factors below:

Highest Work Level Assigned by the Practitioner	Age	Education Level	Other Vocational Factors
Sedentary	Any age	Any level	Does not apply
Light	50 and older	Any level	Does not apply

Highest Work Level Assigned by the Practitioner	Age	Education Level	Other Vocational Factors
Light	35 and older	Illiterate or LEP	Does not apply
Light	18 and older	Limited Education	Does not have any past work
Medium	50 and older	Limited Education	Does not have any past work

(2) The agency or the agency's designee approves incapacity when the individual has a moderate (three) or marked (four) mental health impairment and the agency or the agency's designee has objective medical evidence, including a mental status exam (MSE) per WAC 182-508-0050, that demonstrates social or cognitive factors described in WAC 182-508-0080, interfere with working as follows:

Social Limitation	Age
(a) Moderately impaired (rated three) in the individual's ability to: <ul style="list-style-type: none"> <li>(i) Communicate and perform effectively in a work setting with limited public contact; and</li> <li>(ii) Maintain appropriate behavior in a work setting.</li> </ul>	50 years and older
(b) The individual has a severe (five) impairment in their ability to: <ul style="list-style-type: none"> <li>(i) Communicate and perform effectively in a work setting with public contact; or</li> <li>(ii) Communicate and perform effectively in a work setting with limited public contact.</li> </ul>	Any age
(c) A mental disorder of marked severity (rated four): <ul style="list-style-type: none"> <li>(i) One or more severe (rated five) mental impairment symptoms; and</li> <li>(ii) Moderately impaired (rated three) in the ability to communicate and perform effectively in a work setting with public or limited public contact.</li> </ul>	Any age

(3) The agency or the agency's designee approves incapacity when the individual has both mental and physical impairments and the agency or the agency's designee has objective medical evidence, including a mental status exam (MSE) per WAC 182-508-0050, that demonstrate social or cognitive factors, as described in WAC 182-508-0080 interfere with working as follows:

Age	Education	Other Restrictions
Any age	Any level	(a) The individual is moderately impaired in their ability to communicate and perform effectively in a work setting with limited public contact; and (b) The individual is markedly impaired in their ability to communicate and perform effectively in a work setting with public contact.
50 or older	Limited education	(c) Restricted to medium work level or less.
Any age	Limited education	(d) Restricted to light work level.

(4) The agency or the agency's designee denies incapacity if the agency or the agency's designee decides the individual doesn't meet the criteria listed above.

NEW SECTION

**WAC 182-508-0120 Deciding how long a client is incapacitated.** The agency or the agency's designee decides how long an individual is incapacitated, up to the maximum period set by WAC 182-508-0160, using medical evidence on the expected length of time needed to heal or recover from the incapacitating disorder(s).

NEW SECTION

**WAC 182-508-0130 Medical care services—Limited coverage.** (1) The agency covers only the medically necessary services within the applicable program limitations listed in WAC 182-501-0060.

(2) The agency does not cover medical services received outside the state of Washington unless the medical services are provided in a border city listed in WAC 182-501-0175.

NEW SECTION

**WAC 182-508-0150 Enrollment cap for medical care services (MCS).** (1) Enrollment in medical care services (MCS) coverage is subject to available funds.

(2) The agency may limit enrollment into MCS coverage by implementing an enrollment cap and waiting list.

(3) If an individual is denied MCS coverage due to an enrollment cap:

(a) The individual is added to the MCS waiting list based on the date the individual applied.

(b) Applicants with the oldest application date will be the first to receive an opportunity for enrollment when MCS coverage is available.

(4) An individual is exempted from the enrollment cap and wait list rules when:

(a) MCS was terminated due to agency error;

(b) The individual is in the thirty-day reconsideration period for incapacity reviews under WAC 182-508-0160(4); or

(c) The individual is being terminated from a CN medical program and was receiving and eligible for CN coverage prior to the date a wait list was implemented and the following conditions are met:

(i) The individual met financial and program eligibility criteria for MCS at the time their CN coverage ended; and

(ii) The individual met the incapacity criteria for MCS at the time their CN coverage ended.

(d) The individual applied for medical coverage and an eligibility decision was not completed prior to the enrollment cap effective date.

(5) If the individual is sent an offer for MCS enrollment, the individual must submit a completed application no later than the last day of the month following the month of enrollment offer. The individual must reapply within this time period and subsequently be determined eligible before MCS coverage can begin. The individual must reapply and requalify even if the individual was previously determined eligible for MCS.

(6) The individual is removed from the MCS wait list if the individual:

(a) Is not a Washington resident;

(b) Is deceased;

(c) Requests removal from the wait list;

(d) Fails to submit an application after an enrollment offer is sent as described in subsection (5) of this section;

(e) Reapplies within thirty days of the offer for MCS enrollment, but does not qualify for MCS; or

(f) Qualifies for categorically or medically needy coverage.

NEW SECTION

**WAC 182-508-0160 When medical care services benefits end.** (1) The maximum period of eligibility for medical care services (MCS) is twelve months before the agency or the agency's designee must review incapacity. The agency or the agency's designee uses current medical evidence and the expected length of time before the individual will be capable of gainful employment to decide when MCS benefits will end.

(2) The individual's benefits stop at the end of the individual's incapacity period unless the individual provides additional medical evidence that demonstrates during the current incapacity period that there was no material improvement in the individual's impairment. No material improvement means that the individual's impairment continues to meet the progressive evaluation process criteria in WAC 182-508-0015 through 182-508-0110, excluding the requirement that the individual's impairment(s) prevent employment for ninety days.

(3) The medical evidence must meet all of the criteria defined in WAC 182-508-0030.



(4) The agency or the agency's designee uses medical evidence received after the individual's incapacity period had ended when:

(a) The delay was not due to the individual's failure to cooperate; and

(b) The agency or the agency's designee receives the evidence within thirty days of the end of the individual's incapacity period; and

(c) The evidence meets the progressive evaluation process criteria in WAC 182-508-0015 through 182-508-0110.

(5) Even if the individual's condition has not improved, the individual isn't eligible for MCS when:

(a) The agency or the agency's designee receives current medical evidence that doesn't meet the progressive evaluation process criteria in WAC 182-508-0035 through 182-508-0110; and

(b) The agency's or the agency designee's prior decision that the individual's incapacity met the requirements was incorrect because:

(i) The information the agency or the agency's designee had was incorrect or not enough to show incapacity; or

(ii) The agency or the agency's designee didn't apply the rules correctly to the information it had at that time.

NEW SECTION

**WAC 182-508-0220 How alcohol or drug dependence affects an individual's eligibility for medical care services (MCS).** (1) An individual who gets medical care services (MCS) must complete a chemical dependency assessment when the agency or the agency's designee has information that indicates the individual may be chemically dependent.

(2) An individual must accept an assessment referral and participate in drug or alcohol treatment if a certified chemical dependency counselor indicates a need for treatment, unless the individual meets one of the following good cause reasons:

(a) The agency or the agency's designee determines that the individual's physical or mental health impairment prevents them from participating in treatment.

(b) The outpatient chemical dependency treatment the individual needs isn't available in the county they live in.

(c) The individual needs inpatient chemical dependency treatment at a location that they can't reasonably access.

(3) If an individual refuses or fails to complete an assessment or treatment without good cause, the individual's MCS coverage will end following advance notification rules under WAC 388-458-0030.

NEW SECTION

**WAC 182-508-0230 Eligibility standards for medical care services and ADATSA.** Effective November 1, 2011, the eligibility standards for medical care services (MCS) and Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program assistance units with obligations to pay shelter costs are:

Assistance Unit Size	Eligibility Standard
1	\$339
2	\$428

The eligibility standards for MCS and ADATSA assistance units with shelter provided at no cost are:

Assistance Unit Size	Eligibility Standard
1	\$206
2	\$261

NEW SECTION

**WAC 182-508-0305 Detoxification—Covered services.** (1) The agency or the agency's designee only pays for services that are:

(a) Provided to eligible individuals as described in subsection (5) of this section;

(b) Directly related to detoxification; and

(c) Performed by a certified detoxification center or by a general hospital that has a contract with the department of social and health services to provide detoxification services.

(2) The agency limits on paying for detoxification services are:

(a) Three days for an acute alcoholic condition; or

(b) Five days for acute drug addiction.

(3) The agency only pays for detoxification services when notified within ten working days of the date detoxification began and all eligibility factors are met.

(4) To apply for detoxification services, an individual must complete an application for benefits. An interview is not required when applying for medical assistance. However, additional documentation may be needed to prove or confirm the information provided in the application form.

(5) An individual is eligible for detoxification services if the individual receives benefits under one of the following programs:

(a) Temporary assistance for needy families (TANF);

(b) Aged, blind, disabled cash assistance program (ABD);

(c) Supplemental Security Income (SSI);

(d) Medical care services program (MCS);

(e) Alcohol and Drug Addiction Treatment and Support Act (ADATSA); or

(f) A medical assistance program.

(6) An individual who is not eligible for one of the programs listed in subsection (5) of this section is eligible for the detoxification program if they meet the following criteria:

(a) Nonexempt countable income does not exceed the eligibility standards for MCS and ADATSA as described in WAC 182-508-0230; and

(b) Nonexempt countable resources do not exceed one thousand dollars.

(7) The following expenses are deducted from income when determining countable income:

(a) Mandatory expenses of employment;

(b) Support payments paid under a court order; and

(c) Payments to a wage earner specified by a court in bankruptcy proceedings, or previously contracted major household repairs, when failure to make such payments will result in garnishment of wages or loss of employment.

(8) The following resources are not counted when determining countable resources:

(a) A home;

(b) Household furnishings and personal clothing essential for daily living;

(c) Other personal property used to reduce need for assistance or for rehabilitation;

(d) A used and useful automobile; and

(e) All income and resources of a noninstitutionalized SSI beneficiary.

(9) The following resources are counted when determining countable resources:

(a) Cash and other liquid assets;

(b) Marketable securities; and

(c) Any other resource not specifically exempted that can be converted to cash.

(10) If an individual receives detoxification services, the individual will not incur a deductible as a factor of eligibility for the covered period of detoxification.

(11) Once an individual has been determined eligible for detoxification services, the individual is eligible from the date detoxification begins through the end of the month in which the detoxification is completed.

#### NEW SECTION

**WAC 182-508-0310 ADATSA—Purpose.** (1) The Alcohol and Drug Addiction Treatment and Support Act (ADATSA) is a legislative enactment providing state-funded treatment and support to chemically dependent indigent individuals.

(2) ADATSA provides eligible individuals with treatment if they are chemically dependent and would benefit from it.

#### NEW SECTION

**WAC 182-508-0315 ADATSA—Covered services.** If an individual qualifies for the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) they may be eligible for:

(1) Alcohol/drug treatment services and support based on an individual assessment of alcohol/drug involvement and treatment needs in accordance with RCW 70.96A.100.

(2) Medical care services (MCS) as described under WAC 182-508-0005, 182-501-0060, and 182-501-0065.

#### NEW SECTION

**WAC 182-508-0320 ADATSA—Eligible individuals.**

(1) To be eligible for the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) services, an individual must:

(a) Be eighteen years of age or older;

(b) Be a resident of Washington as defined in WAC 182-503-0520;

(c) Meet citizenship requirements as described in WAC 182-503-0532;

(d) Provide their Social Security number; and

(e) Meet the same income and resource criteria for the medical care services (MCS) program (unless subsection (2) of this section applies), or receive federal assistance under Supplemental Security Income (SSI) or temporary assistance for needy families (TANF).

(2) An individual with nonexcluded countable income higher than the MCS eligibility standard described in WAC 182-508-0230 may qualify for inpatient only residential treatment if total countable income is below the projected monthly cost of care in the treatment center based on the state daily reimbursement rate.

#### NEW SECTION

**WAC 182-508-0375 ADATSA—Eligibility for state-funded medical care services (MCS).** To be eligible for state-funded medical care services (MCS), one of the following situations must exist:

(1) The individual meets the requirements in WAC 182-508-0320 and be waiting to receive the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) services;

(2) The individual is participating in ADATSA residential or outpatient treatment; or

(3) The individual has chosen opiate dependency (methadone maintenance) chemical dependency treatment services instead of other ADATSA treatment, but only if these treatment services are from a state-approved, publicly funded opiate dependency/methadone maintenance program.

### Chapter 182-509 WAC

#### INCOME AND RESOURCES

#### NEW SECTION

**WAC 182-509-0005 MCS income—Ownership and availability.** This section applies to medical care services (MCS) program.

(1) The agency or the agency's designee counts all available income owned or held by persons in the assistance unit under WAC 182-506-0020 to decide if the individual is eligible for benefits when:

(a) The individual gets or expects to get income in the month.

(b) The agency or the agency's designee must count the income based on rules under this chapter.

(c) The individual owns the income. The agency or the agency's designee uses state and federal laws about who owns property to decide if the individual actually owns the income. If the individual is married, the agency or the agency's designee decides if the income is separate or community income according to chapter 26.16 RCW.

(d) The individual has control over the income, which means the income is actually available to the individual. If the individual has a representative payee, protective payee, or other person who manages the individual's income, the agency or the agency's designee considers this as the individual having control over this income.

(e) The individual can use the income to meet their current needs. The agency or the agency's designee counts the gross amount of available income in the month the individual's assistance unit gets it. If the individual normally gets the income:

(i) On a specific day, the agency or the agency's designee counts it as available on that date.

(ii) Monthly or twice monthly and the pay date changes due to a reason beyond the individual's control, such as a weekend or holiday, the agency or the agency's designee counts it in the month the individual would normally get it.

(iii) Weekly or every other week and the pay date changes due to a reason beyond the individual's control, the agency or the agency's designee counts it in the month the individual would normally get it.

(2) If income is legally the individual's designee, the agency or the agency's designee considers the income as available to the individual even if it is paid to someone else for the individual.

(3) The agency or the agency's designee:

(a) May count the income of certain people who live in the individual's home, even if they are not getting or applying for benefits. Their income counts as part of the individual's income.

(b) Counts the income of ineligible, disqualified, or financially responsible people as defined in WAC 182-509-0100.

(4) If the individual has a joint bank account with someone who is not in the individual's assistance unit (AU), the agency or the agency's designee counts any money deposited into that account as the individual's income unless:

(a) The individual can show that all or part of the funds belong **only** to the other account holder and are held or used **only** for the benefit of that holder; or

(b) Social Security Administration (SSA) used that money to determine the other account holder's eligibility for SSI benefits.

(5) Potential income is income the individual may be able to get that can be used to lower their need for assistance. If the agency or the agency's designee determines that the individual has a potential source of income, the individual must make a reasonable effort to make the income available in order to get MCS. The agency or the agency's designee does not count that income until the individual actually gets it.

(6) If the individual's AU includes a sponsored immigrant, the agency or the agency's designee considers the income of the immigrant's sponsor as available to the immigrant under the rules of this chapter. The agency or the agency's designee uses this income when deciding if the individual's AU is eligible for benefits and to calculate the individual's monthly benefits.

(7) The individual may give the agency or the agency's designee proof about a type of income at anytime, including when the agency or the agency's designee asks for it or if the individual disagrees with a decision the agency or the agency's designee made, about:

- (a) Who owns the income;
- (b) Who has legal control of the income;
- (c) The amount of the income; or
- (d) If the income is available.

#### NEW SECTION

**WAC 182-509-0015 MCS income—Excluded income types.** There are some types of income that do not count when determining if an individual is eligible for medical care

services (MCS) coverage. Examples of income that do not count are:

(1) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 182-509-0035;

(2) Federal earned income tax refunds and earned income tax credit (EITC) payments for up to twelve months from the date of receipt;

(3) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(4) Federal twenty-five dollar supplemental weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(5) Title IV-E and state foster care maintenance payments if the individual chooses not to include the foster child in the assistance unit;

(6) Energy assistance payments;

(7) Educational assistance that is not counted under WAC 182-509-0035;

(8) Native American benefits and payments that are not counted under WAC 388-450-0040;

(9) Income from employment and training programs that is not counted under WAC 182-509-0045;

(10) Money withheld from a benefit to repay an overpayment from the same income source;

(11) One-time payments issued under the Department of State or Department of Justice Reception and Replacement Programs, such as voluntary agency (VOLAG) payments;

(12) Payments we are directly told to exclude as income under state or federal law; and

(13) Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household.

#### NEW SECTION

**WAC 182-509-0025 MCS income—Unearned income.** This section applies to medical care services (MCS).

(1) Unearned income is income an individual gets from a source other than employment or self-employment. Some examples of unearned income are:

(a) Railroad retirement;

(b) Unemployment compensation;

(c) Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);

(d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); or

(e) Veteran Administration benefits.

(2) The agency or the agency's designee counts unearned income before any taxes are taken out.

#### NEW SECTION

**WAC 182-509-0030 MCS income—Earned income.** This section applies to medical care services (MCS).

(1) Earned income money received from working. This includes:

(a) Wages;

(b) Tips;

(c) Commissions;

(d) Profits from self-employment activities as described in WAC 182-509-0080; and

(e) One-time payments for work performed over a period of time.

(2) Income received for work performed for something other than money, such as rent, is considered earned income. The amount that is counted when determining the individual's eligibility for MCS is the amount received before any taxes are taken out (gross income).

#### NEW SECTION

**WAC 182-509-0035 MCS income—Educational benefits.** This section applies to medical care services (MCS).

(1) Educational benefits that do not count are:

(a) Educational assistance in the form of grants, loans or work study, issued from Title IV of the Higher Education Amendments (Title IV - HEA) and Bureau of Indian Affairs (BIA) education assistance programs. Examples of Title IV - HEA and BIA educational assistance include, but are not limited to:

- (i) College work study (federal and state);
- (ii) Pell grants; and
- (iii) BIA higher education grants.

(b) Educational assistance in the form of grants, loans or work study made available under any program administered by the Department of Education (DOE) to an undergraduate student. Examples of programs administered by DOE include, but are not limited to:

- (i) Christa McAuliffe Fellowship Program;
- (ii) Jacob K. Javits Fellowship Program; and
- (iii) Library Career Training Program.

(2) For assistance in the form of grants, loans or work study under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-391:

(a) If the individual is attending school half time or more, the following expenses are subtracted:

- (i) Tuition;
- (ii) Fees;
- (iii) Costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study;
- (iv) Books;
- (v) Supplies;
- (vi) Transportation;
- (vii) Dependent care; and
- (viii) Miscellaneous personal expenses.

(b) If the individual is attending school less than half time, the following expenses are subtracted:

- (i) Tuition;
- (ii) Fees; and
- (iii) Costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.

(c) The MCS eligibility standard based on one person is also subtracted.

(d) Any remaining income is unearned income and budgeted using the appropriate budgeting method for the assistance unit.

(3) If the individual is participating in a work study that is not excluded in subsection (1) of this section, that work study income is counted as earned income under the following conditions:

(a) The individual is allowed the earned income work incentive deduction described in WAC 182-509-0175; and

(b) The remaining income is budgeted using the appropriate budgeting method for the assistance unit.

(4) If the individual receives Veteran's Administration Educational Assistance:

(a) All applicable attendance costs are subtracted; and

(b) The remaining unearned income is budgeted using the appropriate budgeting method for the assistance unit.

#### NEW SECTION

**WAC 182-509-0045 MCS income—Employment and training programs.** This section applies to medical care services (MCS).

(1) All payments issued under the Workforce Investment Act (WIA) are excluded.

(2) All payments issued under the National and Community Service Trust Act of 1993 are excluded. This includes payments made through the AmeriCorps program.

(3) All payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, AmeriCorps Vista, university year for action, and urban crime prevention program are excluded.

(4) All payments issued under Title II of the Domestic Volunteer Act of 1973 are excluded. These include:

- (a) Retired senior volunteer program (RSVP);
- (b) Foster grandparents program; and
- (c) Senior companion program.

(5) Training allowances from vocational and rehabilitative programs are counted as earned income when:

(a) The program is recognized by federal, state, or local governments; and

(b) The allowance is not a reimbursement.

(6) When an MCS client receives training allowances, the following is allowed:

(a) The earned income incentive and work expense deduction specified under WAC 182-509-0175, when applicable; and

(b) The actual cost of uniforms or special clothing required for the course as a deduction, if enrolled in a remedial education or vocational training course.

#### NEW SECTION

**WAC 182-509-0055 MCS income—Needs-based assistance from other agencies or organizations.** (1) Needs-based assistance given to the individual by other agencies or organizations is not counted if the assistance is given for reasons other than ongoing living expenses which do not duplicate the purpose of DSHS cash assistance programs. Ongoing living expenses include the following items:

- (a) Clothing;
- (b) Food;
- (c) Household supplies;
- (d) Medical supplies (nonprescription);
- (e) Personal care items;

- (f) Shelter;
- (g) Transportation; and
- (h) Utilities (e.g., lights, cooking fuel, the cost of heating or heating fuel).

(2) **"Needs-based"** means eligibility is based on an asset test of income and resources relative to the federal poverty level (FPL). This definition excludes such incomes as retirement benefits or unemployment compensation which are not needs-based.

(3) If the needs-based assistance is countable, it is treated as unearned income under WAC 182-509-0025.

#### NEW SECTION

**WAC 182-509-0065 MCS income—Gifts—Cash and noncash.** This section applies to medical care services. A gift is an item furnished to an individual without work or cost on the individual's part.

(1) A cash gift is a gift that is furnished as money, cash, checks or any other readily negotiable form. Cash gifts totaling no more than thirty dollars per calendar quarter for each assistance unit member are disregarded as income.

(2) A noncash gift is treated as a resource.

(a) If the gift is a countable resource, its value is added to the value of the individual's existing countable resources and a determination is made on the impact to continue the individual's eligibility for MCS, per WAC 182-509-0005.

(b) If the gift is an excluded or noncountable resource, it does not affect the individual's eligibility or benefit level.

#### NEW SECTION

**WAC 182-509-0080 MCS income—Self-employment income.** This section applies to medical care services (MCS).

(1) Self-employment income is income that is earned by an individual from running a business, performing a service, selling items that are made by the individual or by reselling items to make a profit.

(2) An individual is self-employed if the individual earns income without having an employer/employee relationship with the person who pays for the goods or services. This includes, but is not limited to, when:

(a) The individual has primary control of the way they do their work; or

(b) Income is reported by the individual using IRS Schedule C, Schedule C-EZ, Schedule K-1, or Schedule SE.

(3) An individual usually is considered to have an employer/employee relationship when:

(a) The person the individual provides services for has primary control of how the individual does their work; or

(b) The individual gets an IRS form W-2 to report their income.

(4) Self-employment does not have to be a licensed business for the individual's business or activity to qualify as self-employment. Some examples of self-employment include:

(a) Childcare that requires a license under chapter 74.15 RCW;

(b) Driving a taxi cab;

(c) Farming/fishing;

(d) Odd jobs such as mowing lawns, house painting, gutter cleaning, or car care;

(e) Running a lodging for roomers and/or boarders. Roomer income includes money paid to the individual for shelter costs by someone not in your assistance unit who lives with the individual when:

(i) The individual owns or is buying their own residence; or

(ii) The individual rents all or a part of their residence and the total rent charges to all others living in the home is more than the individual's total rent.

(f) Running an adult family home;

(g) Providing services such as a massage therapist or a professional escort;

(h) Retainer fees to reserve a bed for a foster child;

(i) Selling items that are home-made or items that are supplied to the individual;

(j) Selling or donating biological products such as providing blood or reproductive material for profit;

(k) Working as an independent contractor; and

(l) Running a business or trade either as a sole proprietorship or in a partnership.

(5) If the individual is an employee of a company or person who does the activities listed in subsection (2) of this section as a part of their job, the agency or the agency's designee does not count the work that is performed by the individual as self-employment.

(6) Self-employment income is counted as earned income as described in WAC 182-509-0030 except as described in subsection (7) of this section.

(7) There are special rules about renting or leasing out property or real estate that is owned by the individual. If the individual does not spend at least twenty hours per week managing the property, the income is counted as unearned income.

#### NEW SECTION

**WAC 182-509-0085 MCS income—Self-employment income—Calculation of countable income.** This section applies to medical care services (MCS). The agency or the agency's designee decides how much of an individual's self-employment income to count by:

(1) Counting actual income in the month of application. This is done by:

(a) Adding together the individual's gross self-employment income and any profit the individual made from selling their business property or equipment;

(b) Subtracting the individual's business expenses as described in subsection (2) of this section; and

(c) Dividing the remaining amount of self-employment income by the number of months over which the income will be averaged.

(2) Subtracting one hundred dollars as a business expense even if the individual's costs are less than this. If the individual's costs are more than one hundred dollars, the agency or the agency's designee may subtract the individual's actual costs if the individual provides proof of their expenses. The following expenses are never allowed:

(a) Federal, state, and local income taxes;

(b) Money set aside for retirement purposes;

(c) Personal work-related expenses (such as travel to and from work);

(d) Net losses from previous periods;

(e) Depreciation; or

(f) Any amount that is more than the payment the individual gets from a boarder for lodging and meals.

(3) If the individual has worked at their business for less than a year, figuring the individual's gross self-employment income by averaging:

(a) The income over the period of time the business has been in operation; and

(b) The monthly amount is estimated to be the amount the individual will get for the coming year.

(4) If the individual's self-employment expenses are more than their self-employment income, not using this "loss" to reduce income from other self-employment businesses or other sources of income to the assistance unit.

#### NEW SECTION

**WAC 182-509-0095 MCS income—Allocating income—General.** This section applies to medical care services (MCS).

(1) Allocation is the process of determining how much of a financially responsible person's income is considered available to meet the needs of legal dependents within or outside of an assistance unit (AU).

(2) **"In-bound allocation"** means income possessed by a financially responsible person outside the AU which is considered available to meet the needs of legal dependents in the AU.

(3) **"Out-bound allocation"** means income possessed by a financially responsible AU member which is set aside to meet the needs of a legal dependent outside the AU.

#### NEW SECTION

**WAC 182-509-0100 MCS income—Allocating income—Definitions.** The following definitions apply to the allocation rules for medical care services (MCS):

(1) **"Dependent"** means a person who:

(a) Is or could be claimed for federal income tax purposes by the financially responsible person; or

(b) The financially responsible person is legally obligated to support.

(2) **"Financially responsible person"** means a parent, stepparent, adoptive parent, spouse or caretaker relative.

(3) **"Ineligible assistance unit member"** means a person who is:

(a) Ineligible for MCS due to the citizenship/alien status requirements in WAC 182-503-0532;

(b) Ineligible to receive MCS under WAC 182-503-0560 for fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime; or

(c) Ineligible to receive MCS under WAC 182-503-0560 for violating a condition of probation or parole which was imposed under federal or state law as determined by an administrative body or court of competent jurisdiction.

#### NEW SECTION

**WAC 182-509-0110 MCS income—Allocating income to legal dependents.** This section applies to medical care services (MCS).

(1) The income of an individual is reduced by the following:

(a) The MCS earned income work incentive deduction as specified in WAC 182-509-0175; and

(b) An amount not to exceed the ordered amount paid for court or administratively ordered current or back support for legal dependents living outside the home.

(2) When an individual resides in a medical institution, alcohol or drug treatment center, boarding home, or adult family home and has income, the individual retains an amount equal to:

(a) The eligibility standard amount for the nonapplying spouse living in the home; and

(b) The standard of assistance or personal needs allowance the individual is eligible for based upon their living arrangement.

(3) An individual with countable income remaining after the allocation in subsection (2)(a) and (b) of this section is not eligible for medical care services (MCS).

#### NEW SECTION

**WAC 182-509-0135 MCS income—Allocating income of an ineligible spouse to a medical care services (MCS) client.** This section applies to medical care services (MCS). When an individual is married and lives with the nonapplying spouse, the following income is available to the individual:

(1) The remainder of the individual's wages, retirement benefits or separate property after reducing the income by:

(a) The MCS earned income work incentive deduction as specified in WAC 182-509-0175; and

(b) An amount not to exceed the ordered amount paid for court or administratively ordered current or back support for legal dependents living outside the home.

(2) The remainder of the nonapplying spouse's wages, retirement benefits and separate property after reducing the income by:

(a) An amount not to exceed the ordered amount paid for court or administratively ordered current or back support for legal dependents living outside the home, when the order is a separate order from the applying individual's order; and

(b) The one-person eligibility standard amount as specified under WAC 182-508-0230 which includes ineligible assistance unit members.

(3) One-half of all other community income, as provided in WAC 182-509-0005.

#### NEW SECTION

**WAC 182-509-0155 MCS income—Exemption from sponsor deeming for medical care services (MCS).** This section applies to medical care services (MCS).

(1) An individual who meets any of the following conditions is permanently exempt from deeming and none of a

sponsor's income or resources are counted when determining eligibility for MCS:

(a) The Immigration and Nationality Act (INA) does not require the individual to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status with United States Citizenship and Immigration Services (USCIS):

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban/Haitian entrant; or
- (v) Special immigrant from Iraq or Afghanistan.

(b) The sponsor is an organization or group as opposed to an individual;

(c) The individual does not meet the alien status requirements to be eligible for benefits under WAC 182-503-0532;

(d) The individual has worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. If the individual worked during a quarter in which they received TANF, Basic Food, SSI, CHIP, or nonemergency medicaid benefits, a quarter of work is not counted towards the forty quarters. A quarter of work by the following people is also counted toward the forty qualifying quarters:

- (i) The individual;
- (ii) The individual's parents for the time they worked before the individual turned eighteen years old (including the time they worked before the individual was born); and
- (iii) The individual's spouse if still married or if the spouse is deceased.

(e) The individual becomes a United States (U.S.) citizen;

(f) The individual's sponsor is dead; or

(g) If USCIS or a court decides that the individual, their child, or their parent was a victim of domestic violence from the sponsor and:

- (i) The individual no longer lives with the sponsor; and
- (ii) Leaving the sponsor caused the need for benefits.

(2) While the individual is in the same assistance unit (AU) as their sponsor, they are exempt from the deeming process. An individual is also exempt from the deeming process if:

(a) The sponsor signed the affidavit of support more than five years ago;

(b) The sponsor becomes permanently incapacitated; or

(c) The individual is a qualified alien according to WAC 388-424-0001 and:

(i) Is on active duty with the U.S. armed forces or the individual is the spouse or unmarried dependent child of someone on active duty;

(ii) Is an honorably discharged veteran of the U.S. armed forces or the individual is the spouse or unmarried dependent child of an honorably discharged veteran;

(iii) Was employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Is a victim of domestic violence and the individual has petitioned for legal status under the Violence Against Women Act.

(3) If the individual, their child, or their parent was a victim of domestic violence, the individual is exempt from the deeming process for twelve months if:

(a) The individual no longer lives with the person who committed the violence; and

(b) Leaving this person caused the need for benefits.

(4) If the AU has income at or below one hundred thirty percent of the federal poverty level (FPL), the individual is exempt from the deeming process for twelve months. This is called the "indigence exemption." For this rule, the following is counted as income to the AU:

(a) Earned and unearned income the AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services that are received from an individual or organization.

(5) If the individual chooses to use the indigence exemption, and is eligible for a state program, this information is not reported to the United States Attorney General.

(6) If the individual chooses not to use the indigence exemption:

(a) The individual could be found ineligible for benefits for not verifying the income and resources of the sponsor; or

(b) The individual will be subject to regular deeming rules under this section.

#### NEW SECTION

**WAC 182-509-0165 MCS income—Income calculation.** This section applies to medical care services (MCS).

(1) Countable income is all income that is available to the assistance unit (AU) after the following is subtracted:

(a) Excluded or disregarded income under WAC 182-509-0015;

(b) The earned income work incentive deduction under WAC 182-509-0175;

(c) Income that is allocated to someone outside of the AU under WAC 182-509-0110 through 182-509-0135.

(2) Countable income includes all income that must be counted because it is deemed or allocated from financially responsible persons who are not members of the AU under WAC 182-509-0110 through 182-509-0165.

(3) Countable income is compared to the eligibility standards under WAC 182-508-0230.

(4) If countable income available to the AU is equal to or greater than the eligibility standard, the individual is not eligible for medical care services (MCS).

#### NEW SECTION

**WAC 182-509-0175 MCS income—Earned income work incentive deduction.** This section applies to medical care services (MCS).

(1) When determining eligibility for MCS, the agency or the agency's designee allows an earned income work incentive deduction of fifty percent of an individual's gross earned income.

(2) This deduction is used to reduce countable income before comparing the income to the eligibility standard for the program.

NEW SECTION

**WAC 182-509-0200 MCS resources—How resources affect eligibility for medical care services (MCS).** This section applies to medical care services (MCS).

(1) The following definitions apply to this chapter:

(a) **"Equity value"** means the fair market value (FMV) minus any amount you owe on the resource.

(b) **"Community property"** means a resource in the name of the husband, wife, or both.

(c) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) A resource is counted towards the resource limit described in subsection (6) of this section when:

(a) It is a resource that must be counted under WAC 182-509-0205;

(b) The individual owns the resource. Ownership means:

(i) The individual's name is on the title to the property; or

(ii) The individual has property that doesn't have a title; and

(c) The individual has control over the resource, which means the resource is actually available to the individual; and

(d) The individual could legally sell the resource or convert it into cash within twenty days.

(3) The individual must try to make their resources available even if it will take more than twenty days to do so, unless:

(a) There is a legal barrier; or

(b) A court must be petitioned to release part or all of a resource.

(4) Resources are counted as of the date of application for MCS coverage.

(5) If total countable resources are over the resource limit in subsection (6) of this section, the individual is not eligible for MCS.

(6) Countable resources must be below the standards listed below based on the equity value of all countable resources.

(a) Applicants can have countable resources up to one thousand dollars.

(b) Recipients can have an additional three thousand dollars in a savings account.

(7) If the individual owns a countable resource with someone who is not included in the assistance unit (AU), only the portion of the resource that is owned by the individual is counted. If ownership of the funds cannot be determined, an equal portion of the resource is presumed to be owned by the individual and all other joint owners.

(8) It is assumed an individual has control of community property and is legally able to sell the property or convert it to cash unless evidence is provided to show the individual does not have control of the property.

(9) An item may not be considered separate property if the individual used both separate and community funds to buy or improve it.

(10) The resources of victims of family violence are not counted when:

(a) The resource is owned jointly with member of the former household;

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the individual at risk of harm.

(11) An individual may provide proof about a resource anytime, including when asked for proof by the agency or the agency's designee, or if the individual disagrees with a decision made about:

(a) Who owns a resource;

(b) Who has legal control of the resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property owned by the individual or another person(s).

(12) Resources of certain people who live in the home with the individual are countable, even if they are not getting assistance. Resources that count toward the resource limit in subsection (6) of this section include the resources of ineligible or financially responsible people as defined in WAC 182-509-0100.

NEW SECTION

**WAC 182-509-0205 MCS resources—How resources count toward the resource limits for medical care services (MCS).** This section applies to medical care services (MCS).

(1) The following resources count toward the resource limit described in WAC 182-509-0200:

(a) Liquid resources not specifically excluded in subsection (2) of this section. These are resources that are easily changed into cash. Some examples of liquid resources are:

(i) Cash on hand;

(ii) Money in checking or savings accounts;

(iii) Money market accounts or certificates of deposit (CDs) less any withdrawal penalty;

(iv) Available retirement funds or pension benefits, less any withdrawal penalty;

(v) Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;

(vi) Available trusts or trust accounts;

(vii) Lump sum payments as described in chapter 388-455 WAC; or

(viii) Any funds retained beyond the month of receipt from conversion of federally protected rights or extraction of exempt resources by members of a federally recognized tribe that are in the form of countable resources.

(b) The cash surrender value (CSV) of whole life insurance policies.

(c) The CSV over fifteen hundred dollars of revocable burial insurance policies or funeral agreements.

(d) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220.

(e) Any real property like a home, land, or buildings not specifically excluded in subsection (3) of this section.



(f) The equity value of vehicles as described in WAC 182-509-0210.

(g) Personal property that is not:

(i) A household good;

(ii) Needed for self-employment; or

(iii) Of "great sentimental value," due to personal attachment or hobby interest.

(h) Resources of a sponsor as described in WAC 388-470-0060.

(i) Sales contracts.

(2) The following types of liquid resources are not counted toward the resource limit described in WAC 182-509-0200 when determining eligibility for MCS:

(a) Bona fide loans, including student loans;

(b) Basic food benefits;

(c) Income tax refunds for twelve months from the date of receipt;

(d) Earned income tax credit (EITC) in the month received and for up to twelve months;

(e) Advance earned income tax credit payments;

(f) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(g) Individual development accounts (IDAs) established under RCW 74.08A.220;

(h) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a decision of the department;

(i) Underpayments received under chapter 388-410 WAC;

(j) Educational benefits that are excluded as income under WAC 182-509-0035;

(k) The income and resources of an SSI recipient;

(l) A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;

(m) Foster care payments provided under Title IV-E and/or state foster care maintenance payments;

(n) Adoption support payments;

(o) Self-employment accounts receivable that the individual has billed to the customer but has been unable to collect;

(p) Resources specifically excluded by federal law; and

(q) Receipts from exercising federally protected rights or extracted exempt resources (fishing, shell fishing, timber sales, etc.) during the month of receipt for a member of a federally recognized tribe.

(3) The following types of real property are not counted when determining eligibility for MCS coverage:

(a) A home where the individual, their spouse, or their dependents live, including the surrounding property;

(b) A house the individual does not live in but plans to return to, and the individual is out of the home because of:

(i) Employment;

(ii) Training for future employment;

(iii) Illness; or

(iv) Natural disaster or casualty.

(c) Property that:

(i) The individual is making a good faith effort to sell;

(ii) The individual intends to build a home on, if they do not already own a home;

(iii) Produces income consistent with its fair market value (FMV), even if used only on a seasonal basis; or

(iv) A household member needs for employment or self-employment. Property excluded under this section and used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(d) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

(4) If the individual deposits excluded liquid resources into a bank account with countable liquid resources, the excluded liquid resources are not counted for six months from the date of deposit.

(5) If the individual sells their home, the individual has ninety days to reinvest the proceeds from the sale of a home into an exempt resource.

(a) If the individual does not reinvest within ninety days, the agency or the agency's designee will determine whether there is good cause to allow more time. Some examples of good cause are:

(i) Closing on a new home is taking longer than anticipated;

(ii) The individual is unable to find a new home that is affordable;

(iii) Someone in the household is receiving emergent medical care; or

(iv) The individual has children or dependents that are in school and moving would require them to change schools.

(b) If good cause is determined, more time will be allowed based on the individual's circumstances.

(c) If good cause is not determined, the money received from the sale of the home is considered a countable resource.

#### NEW SECTION

**WAC 182-509-0210 MCS resources—How vehicles count toward the resource limit for medical care services (MCS).** This rule applies to medical care services (MCS).

(1) A vehicle is any device for carrying persons and objects by land, water, or air.

(2) The entire value of a licensed vehicle needed to transport a physically disabled assistance unit (AU) member is excluded.

(3) The equity value of one vehicle up to five thousand dollars is excluded when the vehicle is used by the AU or household as a means of transportation.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-538-063 ((GAU)) MCS clients residing in a designated mandatory managed care plan county.** (1) In Laws of 2007, chapter 522, section 209 (13) and (14), the legislature authorized the department to provide coverage of certain medical and mental health benefits to clients who:

(a) ~~((Receive))~~ Are eligible for medical care services (MCS) under ~~((the general assistance unemployable (GAU) program))~~ WAC 182-508-0005; and

(b) Reside in a county designated by the ~~((department))~~ agency as a mandatory managed care plan county.

(2) The only sections of chapter ~~((388-538))~~ 182-538 WAC that apply to ~~((GAU))~~ MCS clients described in this section are incorporated by reference into this section.

(3) ~~((GAU))~~ MCS clients who reside in a county designated by the department as a mandatory managed care plan county must enroll in a managed care plan as required by WAC ~~((388-505-0110(7)))~~ 182-508-0001 to receive ~~((department-paid))~~ agency-paid medical care. ~~((A-GAU))~~ An MCS client enrolled in an MCO plan under this section is defined as ~~((a-GAU))~~ an MCS enrollee.

(4) ~~((GAU))~~ MCS clients are exempt from mandatory enrollment in managed care if they are American Indian or Alaska Native (AI/AN) and meet the provisions of 25 U.S.C. 1603 (c)-(d) for federally recognized tribal members and their descendants.

(5) The ~~((department))~~ agency exempts ~~((a-GAU))~~ an MCS client from mandatory enrollment in managed care:

(a) If the ~~((GAU))~~ MCS client resides in a county that is not designated by the ~~((department))~~ agency as a mandatory MCO plan county; or

(b) In accordance with WAC ~~((388-538-130))~~ 182-538-130(3).

(6) The ~~((department))~~ agency ends ~~((a-GAU))~~ an MCS enrollee's enrollment in managed care in accordance with WAC ~~((388-538-130))~~ 182-538-130(4).

(7) On a case-by-case basis, the ~~((department))~~ agency may grant ~~((a-GAU))~~ an MCS client's request for exemption from managed care or ~~((a-GAU))~~ an MCS enrollee's request to end enrollment when, in the ~~((department's))~~ agency's judgment:

(a) The client or enrollee has a documented and verifiable medical condition; and

(b) Enrollment in managed care could cause an interruption of treatment that could jeopardize the client's or enrollee's life or health or ability to attain, maintain, or regain maximum function.

(8) The ~~((department))~~ agency enrolls ~~((GAU))~~ MCS clients in managed care effective on the earliest possible date, given the requirements of the enrollment system. The ~~((department))~~ agency does not enroll clients in managed care on a retroactive basis.

(9) Managed care organizations (MCOs) that contract with the ~~((department))~~ agency to provide services to ~~((GAU))~~ MCS clients must meet the qualifications and requirements in WAC ~~((388-538-067))~~ 182-538-067 and ~~((388-538-095))~~ 182-538-095 (3)(a), (b), (c), and (d).

(10) The ~~((department))~~ agency pays MCOs capitated premiums for ~~((GAU))~~ MCS enrollees based on legislative allocations for the ~~((GAU))~~ MCS program.

(11) ~~((GAU))~~ MCS enrollees are eligible for the scope of care as described in WAC ~~((388-501-0060))~~ 182-501-0060 for medical care services (MCS) programs.

(a) ~~((A-GAU))~~ An MCS enrollee is entitled to timely access to medically necessary services as defined in WAC ~~((388-500-0005))~~ 182-500-0070;

(b) MCOs cover the services included in the managed care contract for ~~((GAU))~~ MCS enrollees. MCOs may, at their discretion, cover services not required under the MCO's contract for ~~((GAU))~~ MCS enrollees;

(c) The ~~((department))~~ agency pays providers on a fee-for-service basis for the medically necessary, covered medical care services not covered under the MCO's contract for ~~((GAU))~~ MCS enrollees;

(d) ~~((A-GAU))~~ An MCS enrollee may obtain:

(i) Emergency services in accordance with WAC ~~((388-538-100))~~ 182-538-100; and

(ii) Mental health services in accordance with this section.

(12) The ~~((department))~~ agency does not pay providers on a fee-for-service basis for services covered under the MCO's contract for ~~((GAU))~~ MCS enrollees, even if the MCO has not paid for the service, regardless of the reason. The MCO is solely responsible for payment of MCO-contracted healthcare services that are:

(a) Provided by an MCO-contracted provider; or

(b) Authorized by the MCO and provided by nonparticipating providers.

(13) The following services are not covered for ~~((GAU))~~ MCS enrollees unless the MCO chooses to cover these services at no additional cost to the ~~((department))~~ agency:

(a) Services that are not medically necessary;

(b) Services not included in the medical care services scope of care, unless otherwise specified in this section;

(c) Services, other than a screening exam as described in WAC ~~((388-538-100))~~ 182-538-100(3), received in a hospital emergency department for nonemergency medical conditions; and

(d) Services received from a nonparticipating provider requiring prior authorization from the MCO that were not authorized by the MCO.

(14) A provider may bill ~~((a-GAU))~~ an MCS enrollee for noncovered services described in subsection (12) of this section, if the requirements of WAC ~~((388-502-0160))~~ 182-502-0160 and ~~((388-538-095))~~ 182-538-095(5) are met.

(15) Mental health services and care coordination are available to ~~((GAU))~~ MCS enrollees on a limited basis, subject to available funding from the legislature and an appropriate delivery system.

(16) A care coordinator (a person employed by the MCO or one of the MCO's subcontractors) provides care coordination to ~~((a-GAU))~~ an MCS enrollee in order to improve access to mental health services. Care coordination may include brief, evidenced-based mental health services.

(17) To ensure ~~((a-GAU))~~ an MCS enrollee receives appropriate mental health services and care coordination, the ~~((department))~~ agency requires the enrollee to complete at least one of the following assessments:

(a) A physical evaluation;

(b) A psychological evaluation;

(c) A mental health assessment completed through the client's local community mental health agency (CMHA) and/or other mental health agencies;

(d) A brief evaluation completed through the appropriate care coordinator located at a participating community health center (CHC);

(e) An evaluation by the client's primary care provider (PCP); or

(f) An evaluation completed by medical staff during an emergency room visit.

(18) ~~((GAU))~~ An MCS enrollee who is screened positive for a mental health condition after completing one or more of the assessments described in subsection (17) of this section may receive one of the following levels of care:

(a) **Level 1.** Care provided by a care coordinator when it is determined that the ~~((GAU))~~ MCS enrollee does not require Level 2 services. The care coordinator will provide the following, as determined appropriate and available:

(i) Evidenced-based behavioral health services and care coordination to facilitate receipt of other needed services.

(ii) Coordination with the PCP to provide medication management.

(iii) Referrals to other services as needed.

(iv) Coordination with consulting psychiatrist as necessary.

(b) **Level 2.** Care provided by a contracted provider when it is determined that the ~~((GAU))~~ MCS enrollee requires services beyond Level 1 services. A care coordinator refers the ~~((GAU))~~ MCS enrollee to the appropriate provider for services:

(i) A regional support network (RSN) contracted provider; or

(ii) A contractor-designated entity.

(19) Billing and reporting requirements and payment amounts for mental health services and care coordination provided to ~~((GAU))~~ MCS enrollees are described in the contract between the MCO and the ~~((department))~~ agency.

(20) The total amount the ~~((department))~~ agency pays in any biennium for services provided pursuant to this section cannot exceed the amount appropriated by the legislature for that biennium. The ~~((department))~~ agency has the authority to take whatever actions necessary to ensure the ~~((department))~~ agency stays within the appropriation.

(21) Nothing in this section shall be construed as creating a legal entitlement to any ~~((GAU))~~ MCS client for the receipt of any medical or mental health service by or through the ~~((department))~~ agency.

(22) An MCO may refer enrollees to the ~~((department's))~~ agency's patient review and coordination (PRC) program according to WAC ~~((388-501-0135))~~ 182-501-0135.

(23) The grievance and appeal process found in WAC ~~((388-538-110))~~ 182-538-110 applies to ~~((GAU))~~ MCS enrollees described in this section.

(24) The hearing process found in chapter ~~((388-02))~~ 182-526 WAC and WAC ~~((388-538-112))~~ 182-538-112 applies to ~~((GAU))~~ MCS enrollees described in this section.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 182-556-0500 Medical care services under state-administered cash programs.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-800-0020 What detoxification services will the department pay for?
- WAC 388-800-0025 What information does the department use to decide if I am eligible for the detoxification program?
- WAC 388-800-0030 Who is eligible for detoxification services?
- WAC 388-800-0035 How long am I eligible to receive detoxification services?
- WAC 388-800-0048 Who is eligible for ADATSA?
- WAC 388-800-0110 What cash benefits am I eligible for through ADATSA if I am in residential treatment?
- WAC 388-800-0115 What cash benefits can I receive through ADATSA if I am in outpatient treatment?
- WAC 388-800-0130 What are ADATSA shelter services?
- WAC 388-800-0135 When am I eligible for ADATSA shelter services?
- WAC 388-800-0140 What incapacity criteria must I meet to be eligible for ADATSA shelter services?
- WAC 388-800-0145 How does the department review my eligibility for ADATSA shelter services?
- WAC 388-800-0150 Who is my protective payee?
- WAC 388-800-0155 What are the responsibilities of my protective payee?
- WAC 388-800-0160 What are the responsibilities of an intensive protective payee?
- WAC 388-800-0165 What happens if my relationship with my protective payee ends?

**WSR 11-23-166**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**  
 [Insurance Commissioner Matter No. R 2011-15—Filed November 22, 2011, 3:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-16-069.

Title of Rule and Other Identifying Information: Chapter 284-03 WAC, Public records.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Building, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on January 3, 2011 [2012], at 10:00 a.m.

Date of Intended Adoption: January 9, 2011 [2012].

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail [Kacys@oic.wa.gov](mailto:Kacys@oic.wa.gov), fax (360) 586-3109, by January 3, 2011 [2012].

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores at TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 42.56.040 requires each agency to adopt separate procedures for requesters to gain access to information. The current rules were last amended in 2004. The current rules do not reflect changes in statutes and the office of insurance commissioner (OIC) processes. These proposed rules improve clarity and make it easier for requesters to understand OIC procedures regarding access to public records.

Statutory Authority for Adoption: RCW 48.02.060, 42.56.040.

Statute Being Implemented: Chapter 42.56 RCW.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Kacy Scott, P.O. Box 40255, Olympia, WA 98508-0258 [98504-0255], (360) 725-7041; Implementation: Eric Mark, P.O. Box 40255, Olympia, WA 98504-0258 [98504-0255], (360) 725-7003; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0258 [98504-0255], (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed regulations impose no costs on businesses regulated by the OIC.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal is not a significant legislative rule for the purposes of RCW 34.05.328.

November 22, 2011

Mike Kreidler  
Insurance Commissioner

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-005 ((What is a public record?))**  
**Authority and purpose.** ~~((“Public record” is defined in RCW 42.17.020. Public records include any written or recorded communication containing information relating to the conduct of the OIC or the performance of any governmental or proprietary function prepared, owned, used, or retained by the OIC.))~~ (1) The purpose of these rules is to establish the procedures the office of the insurance commissioner (OIC) will follow in order to provide full access to

public records. These rules provide information to persons wishing to request access to public records of the OIC and establish processes for both requestors and OIC staff that are designed to best assist members of the public in obtaining such access.

(2) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the OIC will be guided by the provisions of the act describing its purposes and interpretation.

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-010 ((Who should I contact about a public record request?))** **Agency description—Contact information—Public records manager.** ~~((The public records officer is in charge of all records maintained by the office of the insurance commissioner (OIC). This includes records at any office in the state maintained by the insurance commissioner. The public records officer is responsible for overseeing the release of public records, coordinating OIC public disclosure staff, and maintaining the records indexes.))~~

(1) The OIC protects consumers, the public trust, and our state's economy through fair and efficient regulation of the insurance industry. The OIC's central office is located at Tumwater, Washington. The OIC has field offices in Seattle and Spokane.

(2) Any person wishing to request access to public records of the OIC, or seeking assistance in making such a request should contact the OIC public records manager at:

Public Records Manager  
Office of the Insurance Commissioner  
5000 Capitol Boulevard S.E.  
Tumwater, WA 98501  
[pdr@oic.wa.gov](mailto:pdr@oic.wa.gov)  
360-725-7003  
fax 360-664-2782

Information is also available at the insurance commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(3) The public records manager will oversee compliance with the act but other OIC staff members may process the request. Therefore, these rules will refer to the public records manager "or designee." The public records manager or designee and agency staff will provide the "fullest assistance" to requestors, create and maintain for use by the public an index to public records of the OIC, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with essential functions of the agency.

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-015 ((How do I make a public record request?))** **Availability of public records.** ~~((Public record~~

requests must be made in writing. The OIC accepts written public record requests made in person or sent by e-mail, fax, or mail. Requests will be accepted either:

(1) On an OIC Public Disclosure Request form. The forms are available on the OIC web site or by contacting the public records officer; or

(2) If the OIC form is not used, the public record request should be in writing and include the following information:

- (a) The name of the person requesting the record;
- (b) The calendar date on which the request was made;
- (c) A sufficient description of the record requested; and
- (d) If the information you are requesting may include a list of individuals, a statement that the list will not be used for commercial purposes.)

**(1) Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the OIC, Monday through Friday, 8:00 a.m. to 5:00 p.m. (excluding legal holidays). Records must be inspected at the offices of the OIC.

**(2) Records index.** An index for categories of public records is available for use by members of the public upon request to the public records manager.

**(3) Organization of records.** The OIC will maintain its records in a reasonably organized manner. The OIC will take reasonable actions to protect records from damage and disorganization. A requestor shall not take records from OIC offices without the permission of the public records manager or designee. A variety of records is available on the OIC web site at [www.insurance.wa.gov](http://www.insurance.wa.gov). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

**(4) Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the OIC should make the request in writing on the agency request form, by letter, fax, or e-mail addressed to the public records manager and should include the following information:

- (i) Name of requestor;
- (ii) Address of requestor;
- (iii) Other contact information, including telephone number and e-mail address;
- (iv) Identification of the public records adequate for the public records manager or designee to locate the records.

(b) A form is available for use by requestors. The form is available either on the OIC's web site: [www.insurance.wa.gov](http://www.insurance.wa.gov) or by contacting the public records manager by e-mail at [pdr@oic.wa.gov](mailto:pdr@oic.wa.gov) or by phone at 360-725-7003;

(c) The public records manager or designee may accept requests for public records that contain the information described in (a) of this subsection by telephone or in person. When the public records manager or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-020** (~~What records indexes are available?~~) **Retention of records.** ((The OIC does not maintain or have custody of all agency records. Historical records are sent to the secretary of the state's archives division. The OIC

maintains a current index providing identifying information regarding OIC public records. The index is available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. The records are indexed:

- (1) By appropriate names;
- (2) By calendar year;
- (3) By topic; or
- (4) A combination of the above methods, as appropriate.)

The retention and lawful destruction of OIC records are governed by the retention schedules approved by the state records committee. The most current version of the state government general records retention schedule can be found on the secretary of state's web site [www.sos.wa.gov](http://www.sos.wa.gov). Retention schedules specific to the OIC are available from the public records manager upon request.

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-025** (~~Is the OIC required to create public records for me?~~) **Processing of public records requests—General.** ((The Public Disclosure Act (RCW 42.17.250 through 42.17.348) requires access to existing, identifiable public records in an agency's possession at the time of the request (see RCW 42.17.270). The OIC is not required to collect or organize data to create a public record that does not exist at the time of the public record request.))

**(1) Providing "fullest assistance."** The OIC is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records manager or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

**(2) Acknowledging receipt of request.** Within five business days of receipt of the request, the public records manager will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) Provide a reasonable estimate of when records will be available;

(c) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records manager or designee may revise the estimate of when records will be available; or

(d) Deny the request.

**(3) Lack of acknowledgment.** If the OIC does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records manager to determine the reason for the failure to respond.

**(4) Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records manager may, prior to providing the records, give notice to such others whose rights may be affected by the dis-

closure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

**(5) No requirement to create record.** The Public Records Act requires the OIC to provide access to existing, identifiable public records in the agency's possession. There is no requirement for the agency to gather and/or organize records to create a public record that does not exist at the time of the request.

**(6) Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the OIC believes that a record is exempt from disclosure and should be withheld, the public records manager will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records manager will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

**(7) Providing records in installments.** When the request is for a large number of records, the public records manager or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records manager or designee may stop searching for the remaining records and close the request.

**(8) Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations, the public records manager will close the request and indicate to the requestor that the OIC has closed the request.

**(9) Later discovered documents.** If, after the OIC has informed the requestor that it has provided all available records, the agency becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-030 ((How will the OIC respond to my public record request?)) Exemptions.** (((1) For purposes of this chapter, the functions, organization and administration of the office relating to insurance matters shall be as set forth in chapter 284-02-WAC.

Within five business days after receiving a request, the OIC will either:

- (a) Provide the record(s);
- (b) Acknowledge your request and give you a reasonable estimate of how long the agency will take to provide records. If your request is not clear, the OIC may ask you for more information (see WAC 284-03-035); or
- (c) Deny all or part of the request in writing, with reasons for the denial (see WAC 284-03-040 and 284-03-045). The

explanation will include the law the OIC relied upon in its denial. Every denial will be sent to the public records officer for review as required by RCW 42.17.320.

(2) At his or her discretion, the public records officer may send the requested records to you by e-mail, fax, or mail. The records may be delivered on computer or compact disks, or by use of other methods of transmittal or storage.) (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions found specifically in the insurance code (Title 48 RCW), that restrict the availability of some documents held by the OIC for inspection and copying:

(a) Medical malpractice - Closed claim reports - Annual reports, RCW 48.140.040 and 48.140.050.

(b) Confidentiality of documents, materials, or other information, RCW 48.02.065.

(c) Insurer's reports, RCW 48.05.510 through 48.05.535.

(d) Insurance fraud, RCW 48.30A.045 through 48.30A.-065 and 48.135.060.

(e) Confidential proprietary and trade secret information, RCW 48.31C.020 through 48.31C.050 and 48.31C.070.

(f) Material acquisitions or disposition information, RCW 48.43.200, 48.44.530 through 48.44.555, and 48.46.-600 through 48.46.625.

(g) Service contract provider's annual reports, RCW 48.110.040.

(h) Statistical summaries, RCW 48.140.040.

(2) The OIC is prohibited by statute from disclosing lists of individuals for commercial purposes.

This list is **for informational purposes only** and a failure to list an exemption **shall not affect the efficacy of any exemption.**

**AMENDATORY SECTION** (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

**WAC 284-03-035 ((Why might the OIC need to extend the time to respond to a public record request?))**

**Agency rules for copy charges.** ((The OIC may need to extend the time to respond to a public record request to:

- (1) Locate and gather the information requested;
- (2) Notify an individual or organization affected by the request;

(3) Determine whether the information requested is exempt from disclosure and whether all or part of the public record requested can be released; or

(4) Contact you to clarify the intent, scope or specifics of the request. If you fail to clarify the request, the OIC may not have to respond to your request.)) (1) **No fees for costs of inspection.** There is no fee for inspecting public records held by the OIC.

(2) **Standard photocopy charges.** Unless otherwise requested, the OIC provides electronic copies of responsive documents in a portable document format (pdf). A requestor may obtain standard 8.5 x 11, black and white photocopies of responsive documents. The OIC will not charge a requestor for electronic copies, or for paper copies of fewer than one

hundred pages. For copy requests of one hundred pages or more, the OIC will charge three dollars and fifty cents for the first one hundred and seventeen cents for each additional page. A statement of the factors and the manner used to determine this charge is available from the public records manager.

(3) Use of outside vendor. The OIC may use an outside vendor for nonstandard copies or for voluminous requests if an outside vendor can make copies more quickly and less expensively than the OIC. In the event an outside vendor is used, the requestor may be charged the actual costs billed by the vendor.

(4) Costs of mailing. The OIC may also charge the requestor for the actual costs of mailing, including the cost of the shipping container.

AMENDATORY SECTION (Amending Matter No. R 2003-10, filed 7/21/04, effective 8/21/04)

WAC 284-03-040 ((What happens if the public record I requested is exempt from disclosure?)) **Review of denials of public records.** ((If the OIC determines that a record is exempt from disclosure, you will be informed in writing of the specific exemption authorizing the OIC to withhold the record.)) (1) **Petition for internal administrative review of denial of access.** Any requestor who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records manager for a review of that decision. The petition should include a copy of the OIC denial, or reasonably identify the written statement by the public records manager or designee denying the request.

(2) **Review by the attorney general's office.** If the OIC denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(3) **Judicial review.** Any requestor may obtain court review of denials of public records requests at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 284-03-045 What happens if only part of the record I requested is exempt?
- WAC 284-03-050 Will the OIC review the denial of my request?
- WAC 284-03-055 What are the fees to copy or inspect records?
- WAC 284-03-060 What records can I inspect and/or copy?
- WAC 284-03-065 When can I inspect or copy documents?

- WAC 284-03-070 Do I need to make an appointment?
- WAC 284-03-075 Can I take original records away from the OIC's office?
- WAC 284-03-100 If I make a complaint or inquiry, how will the OIC use that information?
- WAC 284-03-105 Will the OIC protect my personal information?

**WSR 11-23-167  
PROPOSED RULES  
OFFICE OF  
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2011-22—Filed November 22, 2011, 3:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-102.

Title of Rule and Other Identifying Information: WAC 284-30-500 (1)(b) Unfair practices with respect to vehicle insurance, "family" or "household" exclusion.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on January 3, 2012, at 9:00 a.m.

Date of Intended Adoption: January 9, 2012.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail [kacys@oic.wa.gov](mailto:kacys@oic.wa.gov), fax (360) 586-0139, by January 3, 2012.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by November 21, 2011, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule is to eliminate a conflict in WAC 284-30-500 (1)(b) with several court cases. This amendment will ensure that insured's policy limits for their family and household members are not reduced to the financial responsibility limits in RCW 46.29.090.

Reasons Supporting Proposal: Court rulings have found that the provision in WAC 284-30-500(1) is in direct conflict with public policy.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.30.010.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Kacy Scott, P.O. Box 40258 [40255], Olympia, WA 98504-0248 [98504-0255], (360) 725-7041; Implementation: John Hamje, P.O. Box 40255 [40256], Olympia, WA 98504-0245 [98504-0256], (360) 725-7262; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0245 [98504-0255], (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There are no active domestic carriers in this market that qualify as small businesses.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

November 22, 2011

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2007-07, filed 9/19/07, effective 10/20/07)

**WAC 284-30-500 Unfair practices with respect to vehicle insurance.** (1) The following practices by any insurer with respect to every vehicle liability insurance policy applicable to private passenger automobiles registered or principally garaged in this state are unfair and prohibited:

(a) Failing to provide, to any insured under such policy, liability limits at least as great as those required by RCW 46.29.090, as measured at the effective date of the applicable policy or its renewal;

(b) Denying or limiting liability coverage in such policy to less than the insured's policy limits (~~(required by RCW 46.29.090,)~~) solely because the injured person (~~(is related to the insured by blood or marriage, as, for example, through use of so-called "family" or "household" exclusions))~~) qualifies as an insured as defined in RCW 48.22.005 (5)(a);

(c) Denying or limiting liability coverage in such policy, with respect to injuries sustained by motorcycle passengers, to an amount below the bodily injury liability limits required by RCW 46.29.090, if the policy provides liability coverage for an insured's ownership, operation, or use of a motorcycle.

(2) With respect to vehicle insurance policies applicable to private passenger vehicles registered or principally garaged in this state, failing to provide a named insured an itemization of the premium costs for the coverages under the policy if there are identifiable separate premium charges for the coverages is unfair and prohibited. The required itemization must be given to a named insured no later than at the time of delivery of a policy and must accompany each offer to renew thereafter.

(3) It is an unfair practice for any insurer to consider traffic violations or accidents which occurred more than three years in the past, with respect to the acceptance, rejection, cancellation or nonrenewal of any insured under a private passenger automobile insurance policy, unless, because of the individual's violations, accidents or driving record during the three years immediately past, the earlier violations or accidents are significantly relevant to the individual's qualifications for insurance.

(4) For purposes of this section, the definition of a "private passenger automobile" is that set forth in RCW 48.18.-297, and includes a motorcycle except as otherwise specifically provided in this section.

**WSR 11-23-172**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed November 22, 2011, 4:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-15-019.

Title of Rule and Other Identifying Information: New sections WAC 230-11-200 Defining "electronic raffle system," 230-11-205 Operating requirements for electronic raffle systems, 230-11-210 Leasing electronic raffle systems and 230-16-152 Remote access of electronic raffle systems; and amending WAC 230-11-065 Raffle prizes and 230-11-067 Requesting approval to offer raffle prizes exceeding forty thousand dollars per prize or eighty thousand dollars annually.

Hearing Location(s): Grand Mound Great Wolf Lodge, 20500 Old Highway 99 S.W., Grand Mound, WA 98531, (360) 273-7718, on February 9 or 10, 2012, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: February 9 or 10, 2012. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail [SusanA@wsgc.wa.gov](mailto:SusanA@wsgc.wa.gov), fax (360) 486-3625, by February 1, 2012.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by February 1, 2012, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 50/50 Central, formerly a licensed manufacturer, is requesting a rule change to allow raffle tickets to be sold using electronic raffle systems. The system is loaded into hand held equipment that prints raffle tickets. For example, an individual representing a charitable/nonprofit organization could walk around an arena with a handheld point of sale (POS) system and ask people if they want to purchase a raffle ticket. If so, the individual representing the nonprofit would collect money, print a receipt from the POS equipment and give the receipt to the purchaser. The raffle number(s) are printed on the receipt. Individuals who purchase tickets would not interact with the equipment. Currently, one discount plan is allowed per raffle (for example, tickets are \$8 each, or buy two for \$10). The rule change would allow raffles that use the electronic accounting system to use up to four discount plans for a raffle. The petitioner also requests removing the requirement that raffle licensees must get approval from the commission to exceed \$80,000 in prizes annually.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0277.

Statute Being Implemented: Not applicable.

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



Name of Proponent: Blair Smith, representing 50/50 Central Ltd., a previously licensed manufacturer, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensee. Although there is a cost associated with purchasing the electronic raffle system, licensees would not be required to use the system.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

November 21, 2011

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 668, filed 5/17/10, effective 7/1/10)

**WAC 230-11-065 Raffle prizes.** (1) Organizations must own the prizes offered to winners before the date of the drawing. However, if the winner has an option to receive a cash prize instead of the merchandise, the organization may enter into a contract to purchase the merchandise prize after the winner chooses his or her option. The organization must have the funds to make the purchase on account before the date of the drawing.

(2) At the time and date of any raffle drawing, the organization must have on deposit an unencumbered amount of money that is equal to or greater than all cash prizes being offered in the raffle. The organization must have these funds deposited in the gambling receipts account, if required, or in a recognized Washington state depository authorized to receive funds. The organization must not reduce the balance of funds available from this account below the required amount before awarding the prize(s).

(3) Raffle prizes must:

- (a) Be available at the time and place of the drawing; and
- (b) If cash, be United States currency or an equivalent amount of negotiable instruments; and
- (c) For licensees, not exceed forty thousand dollars per prize (~~or eighty thousand dollars in total raffle prizes in a license year,~~) except as authorized in WAC 230-11-067.

AMENDATORY SECTION (Amending Order 668, filed 5/17/10, effective 7/1/10)

**WAC 230-11-067 Requesting approval to offer raffle prizes exceeding forty thousand dollars per prize (~~or eighty thousand dollars annually~~).** The commissioners may vote to approve a licensee to exceed raffle prize limits on specific occasions if a licensee shows good cause in writing.

The licensee must submit a raffle plan to us that includes at least the following information:

- (1) The organization's goals for conducting the raffle; and
- (2) A brief overview of the licensee's mission and vision including the type of programs supported by the licensee and clients served; and
- (3) Specific details of the raffle rules including:
  - (a) Date of the drawing; and
  - (b) Cost of raffle tickets; and
  - (c) Prizes available; and
  - (d) Security of prizes; and
  - (e) Plans for selling raffle tickets; and
  - (f) Description of how the licensee protects the integrity of the raffle; and
- (4) An explanation of how the proceeds from the raffle will be used; and
- (5) A plan to protect the licensee in the event of low ticket sales and other risks; and
- (6) An explanation of how the licensee will purchase the prize(s) for the raffle; and
- (7) A projected budget including:
  - (a) Estimated gross gambling receipts, expenses, and net income for the raffle; and
  - (b) Minimum number of projected ticket sales to break even; and
  - (c) Corresponding sales and prize levels with projected revenues and expenses for each level; and
  - (d) Minimum and maximum prizes available; and
- (8) Any other information that we request or any information the licensee wishes to submit.

## ELECTRONIC RAFFLE SYSTEMS

### NEW SECTION

**WAC 230-11-200 Defining "electronic raffle system."** "Electronic raffle system" means computer software and related gambling equipment approved by us and used by raffle licensees to sell tickets, account for sales, and print paper tickets to determine winners.

### NEW SECTION

**WAC 230-11-205 Operating requirements for electronic raffle systems.** Electronic raffle systems must be approved by us prior to use, meet the requirements below, and not perform additional functions:

- (1) Raffle licensees using electronic raffle systems must:
  - (a) Conduct their raffles in the same way as other raffles; and
  - (b) Print individual raffle tickets prior to the drawing; and
  - (c) Disconnect all connections that go outside of the electronic raffle system to ensure that internet capability is not available; and
  - (d) Not allow raffle players to interact with the electronic raffle system.
- (2) Approved electronic raffle systems may bundle tickets and sell them at a discount if they:
  - (a) Create the discount plan before selling any raffle tickets; and

- (b) Do not change the discount plan during the raffle; and
- (c) Make single nondiscounted tickets available to all participants; and
- (d) Only use up to a maximum of four discount plans for each raffle; and
- (e) Print each discounted raffle ticket number included in a bundle and a description of the discount plan on a single ticket/receipt.

#### NEW SECTION

**WAC 230-11-210 Leasing electronic raffle systems.** If a raffle licensee leases an electronic raffle system from a manufacturer, the lease must not be based on, in whole or in part, the raffle receipts. However, manufacturers may charge a fixed amount per event.

#### **ELECTRONIC RAFFLE SYSTEMS**

#### NEW SECTION

**WAC 230-16-152 Remote access of electronic raffle systems.** Licensed manufacturers or manufacturer representatives may access the electronic raffle systems for maintenance or repair. Remote access will only be enabled for the duration of the maintenance or repair and the connection terminated immediately after.

**WSR 11-23-174  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed November 23, 2011, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-16-083 on August 2, 2011.

Title of Rule and Other Identifying Information: WAC 220-12-090 Classification—Nonnative aquatic animal species, 220-55-220 Two pole endorsement, 220-56-100 Definitions—Personal-use fishing, 220-56-235 Possession limits—Bottomfish, 220-56-282 Sturgeon—Areas, season, limits and unlawful acts, 232-12-019 Classification of game fish, and 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on January 6, 2012, at 8:30 a.m.

Date of Intended Adoption: On or after February 3, 2012.

Submit Written Comments to: Lori Preuss, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail [Lori.Preuss@dfw.wa.gov](mailto:Lori.Preuss@dfw.wa.gov), fax (360) 902-2155, by December 30, 2011.

Assistance for Persons with Disabilities: Contact Tami Lininger by December 30, 2011, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **WAC 220-12-090 Classification—Nonnative aquatic animal species**, provides sportfishing rules for Northern Pike, which are removed from being classification as a game fish through WAC 232-12-019 below.

**WAC 220-55-220 Two pole endorsement**, allows fishing with two poles in the Pend Oreille River and the lower portion of the Spokane River provide opportunity and removes it from the Swift Reservoir to protect ESA-listed salmon and trout that are being reintroduced to the area.

**WAC 220-56-100 Definitions—Personal use fishing**, opens the Lowland Lake Season on the fourth Saturday in April. Currently, the season opens the last Saturday in April. This will provide additional opportunity for years that have five Saturdays in April.

**WAC 220-56-235 Possession limits—Bottomfish**, removes the lower size limit for lingcod spearfishing.

**WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts**, closes all Puget Sound tributaries to the retention of sturgeon, while allowing catch-and-release fishing. Conservation rule addresses concern for populations in this geographic area and limitations for managing them.

**WAC 232-12-019 Classification of gamefish**, removes northern pike from listing as a game fish. Currently this species is listed as both a game fish and as a prohibited species.

**WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules.**

Addresses conservation concerns: San Poil River has season, harvest, and boundary changes. Lower Crab and Red Rock creeks' fishing season is reduced from year-round to April 1 through September 31. A section of the South Fork Toutle River closes earlier to protect wild steelhead. A section of Salmon Creek in Lewis County closes to protect spawning and rearing habitat. Landlocked rules in Swift Reservoir removed to protect Endangered Species Act listed salmon and trout that are being reintroduced. Several systems in Puget Sound and the Strait of Juan de Fuca close earlier to protect wild steelhead, implementing by permanent rule changes that were made in 2010/2011 by emergency regulation. Closes all coastal rivers, streams, and beaver ponds to fishing, except as listed in the pamphlet; fishing areas will be identified for areas where stocks are robust and can support fishing pressure, as well as in areas where reasonable recreational opportunity exists.

Provides recreational opportunity: Lake Roosevelt walleye fishers are allowed an additional eight fish daily limit. Sections in lower Spokane River are identified for additional walleye and Kokanee daily limits. Selective gear rules are removed from a section of the Kettle River so that fishers may use bait. Additional trout opportunity provided in areas of Puget Sound where there are not concerns about anadromous fish conservation. Increased area of Wind River allowed for catch and release steelhead fishing. Section of Wynoochee River is opened for fishing from a boat.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 77.04.012 and 77.12.047.

Statute Being Implemented: RCW 77.04.012 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: Dates related to these proposed rules:

December 2-3, 2011: Commission meeting. Staff will brief the commission on these rule proposals. No public hearing.

December 30, 2011: Deadline for the public to submit written comments on all of the rules.

January 6-7, 2012: Commission meeting: Public hearing on these rule proposals. Check the commission's agenda for the exact day and time by going to <http://wdfw.wa.gov/commission/meetings.html>.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Charmane Ashbrook, 1111 Washington Street, Olympia, (360) 902-2672; Implementation: James Scott, 1111 Washington Street, Olympia, (360) 902-2736; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect recreational fishers. There is no direct regulation of small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

November 23, 2011

Lori Preuss

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 10-64, filed 3/19/10, effective 5/1/10)

**WAC 220-12-090 Classification—Nonnative aquatic animal species.** (1) Prohibited aquatic animal species. The following species are classified as prohibited aquatic animal species:

(a) Amphibians:

(i) In the family Hylidae: Cricket frog, in the genus *Hyla* species in the group *Arborea* including: *Hyla annectans*, *Hyla arborea*, *Hyla chinensis*, *Hyla hallowellii*, *Hyla immaculata*, *Hyla japonica*, *Hyla meridionalis*, *Hyla sanchiangensis*, *Hyla simplex*, *Hyla suweonensis*, *Hyla tsinlingensis*, *Hyla ussuriensis*, and *Hyla zhaopingensis*.

(ii) In the family Pelobatidae, spadefoots, all species of the genus *Pelobates* including *P. cultripes*, *P. fuscus*, *P. syriacus*, and *P. varaldii*. All species of the genus *Scaphiopus* including: *S. couchii*, *S. holbrookii*, and *S. hurterii*. All species of the genus *Spea* including: *S. hurterii*, *S. bombifrons*, *S. hammondii*, and *S. multiplicata* with the exception of the native species: *Spea intermontana* the great basin spadefoot.

(iii) In the family Pipidae: African clawed frog, all members of the genera *Silurana*, and *Xenopus*.

(iv) In the family Ranidae:

(A) Bull frog, *Rana catesbeiana*.

(B) Holarctic brown frogs and Palearctic green frogs of the genus *Rana*, including the following: *Rana arvalis* group (*R. arvalis*, *R. chaochiaoensis*, *R. chevronta*); *Rana chensi-*

*nensis* group (*R. altaica*, *R. chensinensis*, *R. dybowskii*, *R. kukunoris*, *R. kunyuensis*, *R. ornativentris*, *R. pirica*); *Rana graeca* group (*R. graeca*, *R. italica*); *Rana japonica* group (*R. amurensis*, *R. aragonensis*, *R. japonica*, *R. omeimontis*, *R. zhenhaiensis*); the subgenus *Rugosa* (*Rana rugosa*, *Rana emeljanovi*, *Rana tientaiensis*); *Rana tagoi* group (*R. sakurarii*, *R. honnorate*, *R. huanrenensis*, *R. iberica*, *R. latastei*, *R. macrocnemis*, *R. okinavana*, *R. pyrenaica*, *R. tsushimensis*, *R. zhengi*); and in the *Rana Pelophylax* section, the subgenus *Pelophylax* (*R. bedriagae*, *R. bergeri*, *R. cerigensis*, *R. chosenica*, *R. cretensis*, *R. demarchii*, *R. epeirotica*, *R. fukienensis*, *R. grafti*, *R. hubeiensis*, *R. lateralis*, *R. lessonae*, *R. nigrolineata*, *R. nigromaculata*, *R. perezi*, *R. plancyi*, *R. porosa*, *R. ridibunda*, *R. saharica*, *R. shqipericica*, *R. shuchinae*, *R. terentievi*, *R. tenggerensis*); and the *Rana ridibunda*-*Rana lessonae* hybridogenetic complex species *R. esculenta* and *R. hispanica*.

(v) In the family Ambystomatidae: Mole salamanders. In the genus *Ambystomata*: *A. californiense*, *A. laterale*, *A. opacum*, *A. rosaceum*, *A. tigrinum*, except for the native species *A. tigrinum mavortium* Western tiger salamander, and *A. tigrinum melanostictum* Tiger salamander.

(vi) In the family Amphiumidae one, two, and three toed salamanders or congo eels: All members of the genus *Amphi-uma*.

(vii) In the family Cryptobranchidae: Giant salamanders and hellbenders, all members of the genera *Andrias* and *Cryptobranchus*.

(viii) In the family Dicamptodontidae, American giant salamanders, all members of the genus *Dicamptodon*, except for the native species: *Dicamptodon tenebrosus*, Pacific giant salamander, and *Dicamptodon copei*, Cope's giant salamander.

(ix) In the family Hynobiidae: Mountain salamanders, all members of the genera *Batrachuperus*, *Hynobius*, *Liua*, *Onychodactylus*, *Pachyhynobius*, *Pseudohynobius*, *Ranodon*, and *Salamandrella*.

(x) In the family Plethodontidae, subfamily Desmognathinae: All members of the genus *Desmognathus*, dusky salamander.

(xi) In the family Plethodontidae, subfamily Plethodontinae: All members of the genera *Aneides* (climbing salamanders); *Batrachoseps* (slender salamanders); *Eurycea* (American brook salamanders); *Gyrinophilus* (cave salamanders); *Hemidactylium* (four-toed salamanders); *Hydromantes* (web-toed salamanders); *Plethodon* (woodland and slimy salamanders); *Pseudotriton* (mud or red salamanders), and *Speleomantes* (European salamanders).

(xii) In the family Proteidae, mudpuppies, all members of the genus *Necturus* and *Proteus*.

(xiii) In the family Salamandridae: Newts, all members of the genera *Chioglossa*; *Eichinotriton* (mountain newts); *Euproctus* (European mt. salamander); *Neurergus* (Kurdistan newts); *Notophthalmus* (red-spotted newts); *Pachytriton* (Chinese newts); *Paramesotriton* (warty newts); *Salamandrina* (speckled salamander); *Taricha* except for the native species *Taricha granulosa granulosa* the Northern rough-skinned newt, and *Triturus* (alpine newts).

(xiv) In the family Sirenidae, sirens, all species of the genera *Pseudobranchius* and *Siren*.

(b) Reptiles:

(i) In the family Chelydridae, snapping turtles, all species.

(ii) In the family Emydidae:

(A) Chinese pond turtles, all members of the genus *Chinemys*.

(B) Pond turtles, all members of the genus *Clemmys*.

(C) European pond turtle, *Emys orbicularis*.

(D) Asian pond turtle, all members of the genus *Mauremys*.

(iii) In the family Trionychidae, American soft shell turtles, all members of the genus *Apalone*.

(c) Crustaceans:

(i) Family Cercopagidae:

(A) Fish hook water flea, *Cercopagis pengoi*.

(B) Spiny water flea, *Bythotrephes cederstroemi*.

(ii) Family Grapsidae: Mitten crabs: All members of the genus *Erochier*.

(iii) Family Cambaridae: Crayfish: All genera, except a person may possess and transport dead prohibited crayfish species obtained under the department's recreational crayfishing rules (WAC 220-56-336 and 220-56-315). There is no daily limit, size limit, or sex restriction for prohibited crayfish species. All nonnative crayfish must be kept in a separate container from native crayfish. Release of any live crayfish species into waters other than the water being fished is prohibited.

(iv) Family Parastacidae: Crayfish: All genera except *Engaeos*, and except the species *Cherax quadricarinatus*, *Cherax papuanus*, and *Cherax tenuimanus*.

(v) Family Portunidae: European green crab, *Carcinus maenas*.

(vi) Family Spheromatidae: Burrowing isopod, *Sphaeroma quoyanum*.

(d) Fish:

(i) Family Amiidae: Bowfin, grinnel, or mudfish, *Amia calva*.

(ii) Family Channidae: China fish, snakeheads: All members of the genus *Channa*.

(iii) Family Characidae: Piranha or caribe: All members of the genera *Pygocentrus*, *Rooseveltiella*, and *Serrasalmus*.

(iv) Family Clariidae: Walking catfish: All members of the family.

(v) Family Cyprinidae:

(A) Fathead minnow, *Pimephales promelas*.

(B) Carp, Bighead, *Hypophthalmichthys nobilis*.

(C) Carp, Black, *Mylopharyngodon piceus*.

(D) Carp, Grass (in the diploid form), *Ctenopharyngodon idella*.

(E) Carp, Silver, *Hypophthalmichthys molitrix*.

(F) Ide, silver orfe or golden orfe, *Leuciscus idus*.

(G) Rudd, *Scardinius erythrophthalmus*.

(vi) Family Gobiidae: Round goby, *Neogobius melanostomus*.

(vii) Family Esocidae: Northern pike, *Esox lucius*: A person may possess and transport dead prohibited Northern pike obtained under the department's recreational sport fishing rules (WAC 220-56-100 and 220-56-115). There is no

minimum size, no daily limit, and no possession limit. Release of any live Northern pike into water other than the water being fished is prohibited.

(viii) Family Lepisosteidae: Gar-pikes: All members of the family.

(e) Mammals:

Family Myocastoridae: Nutria, *Myocastor coypu*.

(f) Molluscs:

(i) Family Dreissenidae: Zebra mussels: All members of the genus *Dreissena* and all species known as quagga.

(ii) Family Gastropoda: New Zealand mud snail, *Potamopyrgus antipodarum*.

(2) Regulated aquatic animal species. The following species are classified as regulated aquatic animal species:

(a) Crustaceans:

All nonnative crustaceans classified as shellfish.

(b) Fish:

(i) All nonnative fish classified as food fish and game fish.

(ii) Family Cichlidae: Tilapia: All members of the genera *Tilapia*, *Oreochromis*, and *Sartheradon*.

(iii) Family Clupeidae: Alewife, *Alosa pseudoharengus*.

(iv) Family Cyprinidae:

(A) Common carp, koi, *Cyprinus carpio*.

(B) Goldfish, *Carassius auratus*.

(C) Tench, *Tinca tinca*.

(D) Grass carp (in the triploid form), *Ctenopharyngodon idella*.

(v) Family Poeciliidae: Mosquito fish, *Gambusia affinis*.

(c) Molluscs:

(i) All nonnative molluscs classified as shellfish.

(ii) Family Psammobiidae: Mahogany clam or purple varnish clam, *Nuttalia obscurata*.

(3) Unregulated aquatic animal species. The following species are classified as unregulated aquatic animal species: None.

AMENDATORY SECTION (Amending Order 11-184, filed 8/3/11, effective 9/3/11)

**WAC 220-55-220 Two pole endorsement.** Anglers who are in possession of a valid two pole endorsement may fish with two lines in all lakes and ponds open to fishing, with the following exceptions:

Water Body	County
Para-juvenile Lake	Adams
Quail Lake	Adams
Headgate Pond	Asotin
Columbia Park Pond	Benton
Blackbird Island Pond	Chelan
Lake Wenatchee	Chelan
Aldwell Lake	Clallam
Beaver Lake	Clallam
Carrie Blake Pond	Clallam
Dickey Lake	Clallam
Lake Pleasant	Clallam
Lincoln Pond	Clallam
Sutherland Lake	Clallam

Water Body	County		Water Body	County			
Vancouver Lake	Clark	Includes all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River	Salmon Bay	King			
			Swans Mill Pond	King			
			Koeneman Lake	Kitsap	Formerly Fern Lake		
			Easton Lake	Kittitas			
Big Four Lake	Columbia			Kachess Lake	Kittitas		
Dayton Pond	Columbia			Keechelus Lake	Kittitas		
Blue Lake	Cowlitz			Kiwanis Pond	Kittitas		
Castle Lake	Cowlitz			Naneum Pond	Kittitas		
Coldwater Lake	Cowlitz			Cowlitz Falls Reservoir	Lewis		
Lewis River Power Canal	Cowlitz		Includes old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse	Fort Borst Park Pond	Lewis		
				Mayfield Lake	Lewis	Mayfield Dam to Mossyrock Dam	
Merrill Lake	Cowlitz				Packwood Lake	Lewis	
Silver Lake	Cowlitz				Scanewa Lake	Lewis	Cowlitz Falls Reservoir
Grimes Lake	Douglas				Walupt Lake	Lewis	
Pit Lake	Douglas			Willame Lake	Lewis		
Long Lake	Ferry			Coffeepot Lake	Lincoln		
Beda Lake	Grant			Cady Lake	Mason		
Brookies Lakes	Grant			Cushman Reservoir	Mason		
Dry Falls Lake	Grant			Prices Lake	Mason		
Dusty Lake	Grant			Stump Lake	Mason		
Homestead Lake	Grant			Aeneas Lake	Okanogan		
Lenice Lake	Grant			Big Twin Lake	Okanogan		
Lenore Lake	Grant			Black Lake	Okanogan		
Merry Lake	Grant		Blue Lake	Okanogan	Near Wannacut Lake		
Nunnally Lake	Grant		Blue Lake	Okanogan	Sinlahekin Creek		
Ping Pond	Grant		Campbell Lake	Okanogan			
Damon Lake	Grays Harbor		Chopaka Lake	Okanogan			
Mill Creek Pond	Grays Harbor		Cougar Lake	Okanogan	Lost River		
Promised Land Pond	Grays Harbor		Davis Lake	Okanogan			
Quigg Lake	Grays Harbor	Located at Friends Landing near Montesano	Ell Lake	Okanogan			
Shye Lake	Grays Harbor			Green Lake	Okanogan		
Vance Creek Pond #1	Grays Harbor			Green Lake	Okanogan	Lower Green Lake	
Vance Creek Pond #2	Grays Harbor			Hidden Lake	Okanogan	Lost River	
Wynoochee Reservoir	Grays Harbor			Rat Lake	Okanogan		
Anderson Lake	Jefferson			Silvermail Lake	Okanogan		
Gibbs Lake	Jefferson			Cases Pond	Pacific		
Horseshoe Lake	Jefferson			Middle Nemah Pond	Pacific		
Teal Lake	Jefferson			Mooses Pond	Pacific		
Lake Sammamish	King			Owens Pond	Pacific		
Lake Union	King			South Bend Mill Pond	Pacific		
Lake Washington	King		Including that portion of Sammamish River from 68th Ave. NE bridge downstream (Including Lake Union, Portage Bay, and Salmon Bay) waters east of a north-south line 400' west of the Chittenden Locks to the ((Mont-Lake)) <u>Montlake</u> Bridge	Browns Lake	Pend Oreille		
				Muskegon Lake	Pend Oreille		
				Bradley Lake	Pierce		
		De Coursey Pond		Pierce			
Lake Washington Ship Canal	King			Ohop Lake	Pierce		
				Tanwax Lake	Pierce		
				Wapato Lake	Pierce		
				Granite Lakes	Skagit	Near Marblemount	
				Northern State Hospital Pond	Skagit		
Mill Pond	King	Auburn		Pass Lake	Skagit		
Old Fishing Hole Pond	King	Kent		Vogler Lake	Skagit		
Portage Bay	King						
Rattlesnake Lake	King						
Ravensdale Lake	King						

Water Body	County	
Drano Lake	Skamania	(Little White Salmon River) downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of Hwy. 14 bridge
Swift Reservoir	Skamania	From (( <del>markers approximately 3/8 mile below</del> ) dam to Eagle Cliff Bridge (( <del>to bridge</del> ))
Ebey Lake	Snohomish	Little Lake
Fortson Mill Pond #2	Snohomish	
Jennings Park Pond	Snohomish	
Monte Cristo Lake	Snohomish	
North Gissburg Pond	Snohomish	
Spada Lake	Snohomish	
Amber Lake	Spokane	
Bear Lake	Spokane	
Medical Lake	Spokane	
North Silver Lake	Spokane	
Bayley Lake	Stevens	
Lucky Duck Pond	Stevens	
((Medowell)) <u>McDowell</u> Lake	Stevens	
Rigley Lake	Stevens	
Kennedy Creek Pond	Thurston	
Long's Pond	Thurston	
((Melane)) <u>McLane</u> Creek Ponds	Thurston	
Munn Lake	Thurston	
Jefferson Park Pond	Walla Walla	
Lions Park Pond	Walla Walla	College Place
Diablo Lake	Whatcom	
Gorge Lake	Whatcom	
Lake Whatcom	Whatcom	
Ross Lake	Whatcom	
Squalicum Lake	Whatcom	
Garfield Juvenile Pond	Whitman	
Bumping Lake	Yakima	
Clear Lake	Yakima	
Leech Lake	Yakima	White Pass area
Mud Lake	Yakima	
Myron Lake	Yakima	
Rimrock Lake	Yakima	
Sarge Hubbard Park Pond	Yakima	
Yakima Sportsmen's Park Ponds	Yakima	

Note: The two pole endorsement is not valid in the Columbia and Snake rivers except as noted in Lake Roosevelt and Rufus Woods Lake.

Anglers who are in possession of a valid two pole endorsement may also fish with two lines in the following river sections:

River	County	Section
Spokane	Spokane and Stevens	Lower Spokane River from mouth (SR 25 bridge) to 400' below Little Falls Dam
Pend Oreille	Pend Oreille	

AMENDATORY SECTION (Amending Order 10-64, filed 3/19/10, effective 5/1/10)

**WAC 220-56-100 Definitions—Personal-use fishing.**

The following definitions apply to personal use fishing in Titles 220 and 232 WAC:

(1) "Anadromous game fish" means steelhead, sea-run cutthroat trout, and sea-run Dolly Varden/bull trout.

(2) "Anti-snagging rule" means:

(a) Except when fishing with a buoyant lure (with no weights added to the lure or line) or trolling from a vessel or floating device, terminal fishing gear is limited to a lure or bait with one single point hook.

(b) Only single point hooks measuring not more than 3/4 inch from point to shank may be used and all hooks must be attached to or below the lure or bait.

(c) Weights may not be attached below or less than 12 inches above the lure or bait.

(3) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.

(4) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(5) "Bass" means largemouth and smallmouth bass.

(6) "Bow and arrow fishing" means any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(7) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.

(8) "Buoyant lure" means a lure that floats on the surface of freshwater when no additional weight is applied to the line or lure, and when not being retrieved by a line.

(9) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.

(10) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given species or aggregate of species which a person may retain in a single day.

(11) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.

(12) "Freshwater area" means:

(a) Within any freshwater river, lake, stream or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream or pond.

(13) "Frozen" means fish or shellfish that are hard frozen throughout.

(14) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(15) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish having a clipped adipose fin or a clipped ventral fin with a healed scar at the location of the clipped fin. A hatchery salmon is a salmon having a clipped adipose fin and a healed scar at the location of the clipped fin, regardless of whether the fish is missing a ventral fin.

(16) "Hook" means one single point, double or treble hook. A "single point hook" means a hook having only one point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank.

(17) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" shall be identical in meaning.

(18) "In the field or in transit" means at any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(19) "Juvenile" means a person under fifteen year of age.

(20) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

(21) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

(22) "Opening day of lowland lake season" means the ~~(last)~~ fourth Saturday in April.

(23) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(24) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

(25) "Steelhead license year limit" means the maximum number of steelhead trout any one angler may retain from April 1st through the following March 31st.

(26) "Selective gear rules" means terminal fishing gear is limited to artificial flies with barbless single hooks or lures with barbless single hooks and bait is prohibited. Up to three hooks may be used. Only knotless nets may be used to land fish. In waters under selective gear rules, fish may be released until the daily limit is retained.

(27) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

(28) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(29) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

(30) "Stationary gear restriction" means the line and weight and lure or bait must be moving while in the water. The line and weight and lure or bait may not be stationary.

(31) "Steelhead" means sea-run rainbow trout over twenty inches in length.

(32) "Trolling" means a method of fishing from a vessel or floating device that is underway and under power.

(33) "Unmarked salmon" means a salmon with intact adipose and ventral fins.

(34) "Trout" means brown trout, bull trout, cutthroat trout, Dolly Varden, Eastern brook trout, golden trout, grayling, Kokanee (silver trout), lake trout, rainbow trout, tiger trout, and, in WAC 232-28-619, salmon from waters designated as "landlocked salmon rules apply."

(35) "Whitefish gear rules" means terminal fishing gear is restricted to one single hook, maximum hook size three-sixteenths inch point to shank (hook size 14), and bait is allowed. All species: Release all fish except whitefish.

(36) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish with all fins intact.

(37) "Wild" when used to describe a salmon (Chinook, coho, chum, pink or sockeye), means a salmon with an unclipped adipose fin, regardless of whether the fish is ventral fin-clipped. A salmon with a clipped adipose fin and a healed scar at the site of the clipped fin is not a wild salmon.

(38) "Wild cutthroat release" means it is unlawful to retain any cutthroat trout that does not have a clipped adipose fin and a healed scar at the location of the clipped fin.

(39) "Wild steelhead release" means it is unlawful to retain any steelhead that does not have a clipped adipose or ventral fin and a healed scar at the location of the clipped fin.

AMENDATORY SECTION (Amending Order 11-142, filed 7/6/11, effective 8/6/11)

**WAC 220-56-235 Possession limits—Bottomfish.** It is unlawful for any person to take in any day more than the following quantities of bottomfish for personal use. The possession limit at any time shall not exceed the equivalent of two daily limits in fresh, frozen or processed form. Unless otherwise provided bottomfish fishing is open the entire year.

(1) Coastal (Catch Record Card Areas 1 through 4) - 12 fish in the aggregate, except east of the Bonilla-Tatoosh line - 10 fish in the aggregate, of all species and species groups of bottomfish, which may include no more than:

(a) Lingcod - 2 fish:

(i) Minimum length 22 inches in Catch Record Card Areas 1 through 3.

(ii) Minimum length 24 inches in Catch Record Card Area 4.

(b) Rockfish - 10 fish. Release all canary and yelloweye rockfish. In Marine Area 4 east of the Bonilla Tatoosh Line: 6 fish. Only black or blue rockfish may be retained.

- (c) Wolfeel - 0 fish from Catch Record Card Area 4.
- (d) Cabezon - 2 fish.

(2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(a) Catch Record Card Areas 5 and 6 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish in Marine Area 5 except	1 fish May 1 through September 30 only black or blue rockfish may be retained.
in Marine Area 5 west of Slip Point	3 fish only black or blue rockfish may be retained.
in Marine Area 6.	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pacific hake	2 fish

(b) Catch Record Card Area 7 - 15 fish in the aggregate of all species of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pollock	2 fish
Pacific hake	2 fish

(c) Catch Record Card Areas 8-1 through 11 and 13 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish
Pacific hake	0 fish

(d) Catch Area 12: Closed.

(e) It is unlawful to possess lingcod taken by angling (~~or by spear fishing~~) less than 26 inches in length or greater than

36 inches in length. It is unlawful to possess lingcod taken by spear fishing greater than 36 inches in length.

(f) It is unlawful to retain cabezon taken from Catch Record Card Areas 5 through 11 and 13 from December 1 through April 30.

(g) It is unlawful to retain six-gill shark taken from Catch Record Card Areas 5 through 13.

(h) In Catch Record Area 5, the daily limit for rockfish is the first legal rockfish caught, except west of Slip Point the daily limit for rockfish is the first three legal rockfish caught. Only black or blue rockfish may be retained. After the daily limit of rockfish is caught, all subsequent rockfish must be released.

(i) In Catch Record Card Area 5, it is unlawful to take rockfish by spear fishing except when this area is open to spear fishing for lingcod.

AMENDATORY SECTION (Amending Order 08-23, filed 2/13/08, effective 1/1/09)

**WAC 220-56-282 Sturgeon—Areas, seasons, limits and unlawful acts.** (1) It is unlawful to retain green sturgeon.

(2) It is unlawful to retain white sturgeon in Puget Sound and all Puget Sound tributaries.

(3) For all saltwaters excluding Puget Sound and Puget Sound tributaries, it is lawful to fish for white sturgeon the entire year in saltwater, but open in freshwater only concurrent with a salmon or (~~gamefish~~) game fish opening unless otherwise provided.

~~((3))~~ (4) The daily limit is one white sturgeon, with the following size restrictions:

(a) Minimum size 43 inches fork length in the Columbia River and tributaries upstream from The Dalles Dam.

(b) Minimum size 38 inches fork length in all other state waters.

(c) Maximum size 54 inches fork length.

Once the daily limit has been retained, it is lawful to continue to fish for sturgeon in the mainstem of the Columbia River downstream from where the river forms the boundary between Oregon and Washington, provided that all subsequent sturgeon are released immediately.

~~((4))~~ (5) The possession limit is two daily limits of fresh, frozen or processed white sturgeon.

~~((5))~~ (6) There is an annual personal-use limit of five white sturgeon from April 1 through March 31, regardless of where the sturgeon were taken. After the annual limit of sturgeon has been taken, it is lawful to continue to fish for white sturgeon in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington, provided that all subsequent sturgeon are released immediately.

~~((6))~~ (7) It is unlawful to fish for sturgeon with terminal gear other than bait and one single barbless hook. It is lawful to use artificial scent with bait when fishing for white sturgeon. Violation of this subsection is an infraction, punishable under RCW 77.15.160. It is unlawful to possess sturgeon taken with gear in violation of the provisions of this section. Possession of sturgeon while using gear in violation of the provisions of this section is a rebuttable presumption that the sturgeon were taken with such gear. Possession of such stur-



geon is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree—Penalty, unless the sturgeon are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree—Penalty.

~~((7))~~ (8) It is unlawful to fish for or possess sturgeon taken for personal use from freshwater, except the Chehalis River, from one hour after official sunset to one hour before official sunrise.

~~((8))~~ (9) It is unlawful to possess in the field sturgeon eggs without having retained the intact carcass of the fish from which the eggs have been removed.

~~((9))~~ (10) It is unlawful to use a gaff or other fish landing aid that penetrates the fish while restraining, handling or landing a sturgeon.

~~((10))~~ (11) It is unlawful to fail to immediately return to the water any undersize sturgeon.

AMENDATORY SECTION (Amending Order 04-39, filed 3/4/04, effective 5/1/04)

**WAC 232-12-019 Classification of game fish.** As provided in RCW 77.12.020 and in addition to those species identified in RCW 77.08.020 the following species of the class *Osteichthyes* are classified as game fish:

Scientific Name	Common Name
<i>Salvelinus confluentus</i>	Bull Trout
<i>Catostomus columbianus</i>	Bridgelip Sucker
<i>Catostomus macrocheilus</i>	Largescale Sucker
<i>Catostomus catostomus</i>	Longnose Sucker
<i>Catostomus platyrhynchus</i>	Mountain Sucker
<i>Ctenopharyngodon idella</i>	Grass Carp
<del>(<i>Esox lucius</i></del> <del>and))</del> <i>Hybrids involving genus Esox</i>	<del>(Northern Pike))</del> Tiger Muskellunge
<i>Meilocheilus caurinus</i>	Peamouth Chub
<i>Oncorhynchus tshawytscha</i> (in its landlocked form as defined in WAC 232-12-018)	Chinook salmon
<i>Oncorhynchus kisutch</i> (in its landlocked form as defined in WAC 232-12-018)	Coho salmon
<i>Pylodictus olivaris</i>	Flathead Catfish
<i>Ptychocheilus oregonensis</i>	Northern Pikeminnow
<i>Salmo trutta</i> and <i>Salvelinus fontinalis hybrid</i>	Tiger Trout

Northern pikeminnow lawfully taken may be offered for sale, sold, purchased, or traded.

AMENDATORY SECTION (Amending Order 11-273, filed 10/11/11, effective 11/11/11)

**WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules.** (1) All

freshwater streams and lakes not listed as open for salmon fishing are closed to fishing for salmon.

(2) As used in this section, "lead jig" means a lure consisting of a hook permanently or temporarily attached directly to a lead weight by any method. "Lead weight" means material constructed of lead and applied to a fishing line or lure and designed to help keep the hook, bait, or lure underwater.

(3) Freshwater terminal gear restrictions: In all waters with freshwater terminal gear restrictions, including, but not limited to, selective gear rules, whitefish gear rules, single point barbless hooks required, fly-fishing only, and anti-snagging rules, violation of the gear rules is an infraction, punishable under RCW 77.15.160. It is unlawful to possess fish taken with gear in violation of the freshwater terminal gear restrictions. Possession of fish while using gear in violation of the freshwater terminal gear restrictions is a rebuttable presumption that the fish were taken with such gear. Possession of such fish is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree, unless the fish are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree.

(4) County freshwater exceptions to statewide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to statewide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to statewide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Saturday before Memorial Day through October 31 season. Trout: Daily limit 5, no minimum size.

(d) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: ~~(East))~~ Fourth Saturday in April through October 31 season. Trout: No minimum length.

(e) Kitsap County and Mason County east of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: First Saturday in June through October 31 season. Trout: No minimum length.

(5) Rivers, streams, and beaver ponds that drain into Puget Sound or the Strait of Juan de Fuca are closed to fishing unless listed as open below.

(6) Specific freshwater exceptions to statewide rules:

Aberdeen Lake (Grays Harbor County): ~~(East))~~ Fourth Saturday in April through October 31 season. Trout: No more than two over 15 inches in length may be retained per day.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: The first Saturday in June through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

From Abernathy falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Aeneas Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek and Middle Fork from the A2000 Road Bridge at Tree Phones Campground downstream to the A2000 Spur Road Bridge in NE Section 34: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Alder Creek (Pacific County) (Naselle River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31. Selective gear rules.

Alder Lake (Thurston County): Kokanee not included in trout daily limit. Kokanee daily limit 10. All tributaries: The first Saturday in June through October 31 season. Trout: Minimum length 14 inches.

Aldrich Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Aldwell Lake (Clallam County): (~~Last~~) Fourth Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

All Creek (Skagit County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Allen Creek (Thurston County) (Black River tributary): From mouth upstream: All species: Selective gear rules, night closure, and anti-snagging rule.

Alma Creek (Skagit County): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Amon Creek (Benton County): Selective gear rules.

Alta Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through September 30 season.

Amber Lake (Spokane County): (~~Last~~) Fourth Saturday in April through September 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit two, minimum length fourteen inches; release rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Additional season October 1 through November 30 and

March 1 through Friday before (~~Last~~) fourth Saturday in April. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

American Lake (Pierce County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee. Chumming permitted.

American River (Yakima County): Closed waters: From Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8 July 16 through September 15. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Anderson Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Anderson Creek (Whatcom County) (Nooksack River tributary): First Saturday in June through October 31 season. Selective gear rules.

Anderson Lake (Jefferson County): (~~Last~~) Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and trout: Release all trout.

Armstrong Lake (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

Bacon Creek (Skagit County): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Bacus Creek (Skagit County): First Saturday in June through October 31 season. Selective gear rules.

B.C. Mill Pond (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season.

Badger Lake (Spokane County): (~~Last~~) Fourth Saturday in April through September 30 season.

Bainbridge Island - All streams (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Baker Lake (Whatcom County): (~~Last~~) Fourth Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): Mouth to Highway 20 Bridge: September 1 through October 31 season. Anti-snagging rule and night closure. Trout: Minimum length fourteen inches, except Dolly Varden/Bull Trout. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

Highway 20 Bridge to Baker River fish barrier dam: Closed waters.

From fish barrier dam to headwaters, including all tributaries and their tributaries except Channel Creek: First Saturday in June through October 31 season.

Banks Lake (Grant County): Chumming allowed. Perch: Daily limit twenty-five. Crappie: Daily limit 10, minimum size 9 inches in length.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Bayley Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through July 4 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Clallam County) (Bogachiel River tributary): From mouth upstream: First Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Bear Creek (Clallam County) (Sol Duc River tributary): From mouth upstream: First Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Bear Creek (Yakima County): Tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles, holders of reduced fee licenses or designated harvester cards, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): The first Saturday in June through ~~((March 31))~~ last day in February season. Anti-snagging rule and night closure August 16 through November 30. ~~((Single point barbless hooks required August 16 through November 30 downstream from the Lime Quarry Road. All species: Release all fish except salmon and except up to 2 hatchery steelhead may be retained each day.))~~

From mouth (Highway 101 Bridge) to Lime Quarry Road (approximately two river miles): All game fish: Release all fish, except up to 2 hatchery steelhead may be retained per day. Single point barbless hooks required August 16 through November 30.

From the Lime Quarry Road upstream to the Longview Fiber Bridge: Selective gear rules ~~((and unlawful to fish from a floating device equipped with an internal combustion motor the first Saturday in June through March 31)).~~ All ~~((species))~~ game fish: Release all fish, except up to 2 hatchery steelhead may be retained per day. Salmon: Open only September 1 through November 30 from mouth to Lime Quarry Road. Daily limit 6 fish of which no more than 2 may be adult fish and of these no more than one may be a wild adult coho. Release chum and wild Chinook. ~~((Upstream of Longview Fiber Bridge: Closed waters.))~~

Beaver Creek (Clallam County) (Sol Duc River tributary): From mouth upstream to Beaver Falls: First Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

From Beaver Falls upstream to Beaver Lake: First Saturday in June through October 31 season.

Beaver Creek (Pierce County) (South Prairie Creek tributary): First Saturday in June through October 31 season.

Beaver Creek (Thurston County) and all tributaries west of I-5: First Saturday in June through October 31 season. Selective gear rules, night closure and anti-snagging rule. Trout: Minimum length 14 inches.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Maximum size 12 inches in length.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beaver Lake (King County): Trout: Daily limit 5, no more than 2 over 15 inches in length.

Beda Lake (Grant County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): ~~((Last))~~ Fourth Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish. Unlawful to fish from a floating device equipped with an internal combustion motor.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Benson Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Bertrand Creek (Whatcom County) (Nooksack River tributary): First Saturday in June through October 31 season. Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): The first Saturday in June through August 31 season. Juveniles only.

Big Beaver Creek (Whatcom County):

From one-quarter mile upstream of closed water markers on Ross Lake upstream including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Big Beef Creek (Kitsap County): From Seabeck Highway Bridge to Lake Symington: The first Saturday in June through August 31 season. Closed waters August 1 through August 31: Waters within 100 feet of the Seabeck Highway NW Bridge. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

From Lake Symington upstream: First Saturday in June through October 31 season. All species: Selective gear rules. Release all trout.

Big Creek (Grays Harbor County): First Saturday in June through last day in October season. All species: Selective gear rules.

Big Creek (Skagit County) (Suiattle River tributary): From TeePee falls to source: First Saturday in June through October 31 season. Selective gear rules.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches. Salmon: Landlocked salmon rules apply.

Big Meadow Lake (Pend Oreille County): ~~((Last)) Fourth~~ Saturday in April through October 31 season. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Big Mission Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Big Quilcene River (Jefferson County): See Quilcene River.

Big River (Clallam County): Outside of Olympic National Park: The first Saturday in June through ~~((last day in February))~~ October 15 season. All species: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches. Release kokanee.

Big Scandia Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Big Tiffany Lake (Okanogan County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Release all cutthroat.

Big Twin Lake (Okanogan County): ~~((Last)) Fourth~~ Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Bingham Creek (Mason County) (Satsop River tributary): From mouth upstream: First Saturday in June through October 31 season. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Creek (Grays Harbor County) (Wynoochee River tributary): From mouth upstream: First Saturday in June through October 31 season. All species: Selective gear rules.

Black Creek (Snohomish County) (South Fork Stillaguamish River tributary): Above the confluence of Black and Bear creeks. First Saturday in June through October 31 season.

Blackjack Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Blackbird Island Pond (Chelan County): July 1 through September 30 season. Juveniles only.

Black Lake (Okanogan County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Black Lake (Pacific County): ~~((Last)) Fourth~~ Saturday in April through October 31 season.

Black Lake (Stevens County): ~~((Last)) Fourth~~ Saturday in April through October 31 season.

Black Lake (Thurston County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee. Crappie: Daily limit ten, minimum length nine inches.

Black Lake Ditch (Thurston County): From the confluence with Percival Creek upstream to Black Lake: First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Black River (Thurston County): From mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Dempsey Creek, Salmon Creek, and Blooms Ditch: First Saturday in June through October 31 season. Selective gear rules. ~~((Trout: Minimum length 14 inches.))~~ From Highway 12 to bridge on 128th Ave. SW: Anti-snagging rule, night closure and single-point barbless hooks required. Salmon: Open only from Highway 12 to bridge on 128th Ave. SW from October 1 through November 30. Daily limit 6 fish of which only 2 may be adults. Release Chinook and chum. Trout minimum length 14 inches, except from the bridge on 128th Avenue SW (west of Littlerock) to Black Lake, where the minimum length is eight inches.

Blackman's Lake (Snohomish County): Trout: Daily limit 3.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blue Creek (Lewis County)(~~(?)~~): From mouth to Spencer Road: Closed waters except December 1 through December 31 season from mouth to posted sign at rearing pond outlet. Closed waters: Upstream from cable crossing to posted signs at fence. Anti-snagging rule and night closure. Only anglers who permanently use a wheelchair may fish from posted signs above rearing pond to posted signs approximately 40 feet downstream at fence including the rearing pond outlet. Trout: Daily limit five. Minimum size 12 inches no more than two fish over 20 inches. Release wild cutthroat.

Blooms Ditch (Thurston County) (Black River tributary): From mouth to I-5: Daily limit two, minimum length 14 inches.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Blue Lake (Cowlitz County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Blue Lake (Grant County): (~~(Last)~~) Fourth Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): April 1 through September 30 season.

Bogachiel River (Clallam County)(~~(?)~~): From mouth to ((Olympic National Park boundary)) Highway 101 Bridge: The first Saturday in June through April 30 season. ((The first Saturday in June through November 30, selective gear rules and December 1 through April 30, selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor from Highway 101 to Olympic National Park boundary.)) Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead ((downstream from Highway 101 Bridge)). February 16 through April 30, ((mouth to Highway 101, one)) wild steelhead ((per day may be retained)) retention allowed. Salmon: ((Open only)) July 1 through ((November 30 from mouth to Highway 101 Bridge. July 1 through)) August 31(~~(?)~~). Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult Chinook and wild adult coho. September 1 through November 30, daily limit 6

fish of which no more than 4 may be adult salmon, and of the 4 adult salmon, no more than 2 may be any combination of Chinook, wild coho, pink, sockeye, and chum salmon.

From Highway 101 Bridge to Olympic National Park boundary: The first Saturday in June through April 30 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Boise Creek (King County) (White River tributary): Upstream of Highway 410 crossing: First Saturday in June through October 31 season.

Bonaparte Creek (Okanogan County): Closed Waters from mouth to falls one mile upstream.

Bonaparte Lake (Okanogan County): Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis. Trout: No more than one over twenty inches in length may be retained.

Bone River (Pacific County): From mouth upstream: All game fish: First Saturday in June through October 31 season. Selective gear rules.

Bosworth Lake (Snohomish County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Boulder Creek and tributaries (Okanogan County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten, no minimum size. Release all cutthroat.

Boulder Creek (Skagit County) (Cascade River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish.

Boulder River (Snohomish County) (NF Stillaguamish River tributary): Mouth to Boulder Falls. First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

From Boulder Falls upstream: First Saturday in June through October 31 season.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County)(~~(?)~~): From mouth to waterfall approximately 2 miles upstream (including the portion flowing through the dry lakebed): Closed waters. From waterfall approximately 2 miles upstream of mouth to USFS Road #4930 Bridge: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Boxley Creek (North Bend) (King County)(~~(?)~~): From the falls located at approximately river mile 0.9 upstream: First Saturday in June through October 31 season.

Boyle Lake (King County): (~~(Last)~~) Fourth Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bradley Lake (Pierce County): Salmon: Landlocked salmon rules apply. May 15 through the last day of Free Fishing Weekend (as defined in WAC 220-55-160): Juveniles only.

Bridges Lake (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one fish.

Browns Creek (Pend Oreille County): Fly fishing only.

Browns Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: No more than one fish greater than 11 inches in length may be retained.

Buck Creek (Skagit County) (Suiattle River tributary): From upstream boundary of Buck Creek campground to source: First Saturday in June through October 31 season. Selective gear rules.

Buck Lake (Kitsap County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Buckskin Creek and tributaries (Yakima County)~~((;))~~: From mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor the first Saturday in June through October 31. Whitefish: Additional December 1 through March 31 season. Whitefish gear rules apply.

Bunker Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Daily limit 2 fish, minimum length eight inches. All species: Selective gear rules.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Butte Creek (Pacific County) (Smith River tributary): From mouth upstream: The first Saturday in June through October 31 season. All game fish: Selective gear rules.

Butter Creek (Lewis County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length ten inches.

Buttermilk Creek, mouth to confluence of East and West Forks (Okanogan County): Closed waters.

Buzzard Lake (Okanogan County): ~~((Last))~~ Fourth Saturday in April through October 31 season. All species: Selective gear rules. Trout: Daily limit 1.

Cadet Creek (Snohomish County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules.

Cady Lake (Mason County): Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. All species: Release all fish.

Cain Lake (Whatcom County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Calawah River (Clallam County)~~((;))~~: From mouth to ~~((forks))~~ Highway 101 Bridge: The first Saturday in June through April 30 season. ~~((December 1 through April 30, selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor from Highway 101 to forks-))~~ Trout: Minimum length fourteen inches. November 1 through last day in February, daily limit three steelhead ~~((from mouth to Highway 101 Bridge))~~. February 16 through April 30, ~~((mouth to Highway 101, one))~~ wild steelhead ~~((per day may be retained))~~ retention allowed. Salmon: ~~((Open only July 1 through November 30 from mouth to Highway 101 Bridge.))~~ July 1 through August 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult Chinook and wild adult coho. September 1 through November 30, daily limit 6 fish of which no more than 4 may be adult salmon, and of the 4 adult salmon, no more than 2 may be any combination of Chinook, wild coho, pink, sockeye, and chum salmon.

From Highway 101 Bridge to forks: First Saturday in June through April 30 season. Trout: Minimum length of fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Calawah River, North Fork (Clallam County): From mouth upstream: The first Saturday in June through last day in October season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Calawah River, South Fork (Clallam County): From mouth to Olympic National Park boundary: The first Saturday in June through last day in February season. ~~((First Saturday in June through last day in February, selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor December 1 through last day in February-))~~ Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Caldwell Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

California Creek (Whatcom County): First Saturday in June through October 31 season. Selective gear rules.

Calispell Creek (Calispell River) (Pend Oreille County):

From mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Calispell Creek and tributaries: Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Camas Slough: 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. Season: Open when the adjacent mainstem Columbia or Washougal rivers are open to fishing for salmon. Daily limit same as most liberal regulation of either area, except for salmon, only hatchery Chinook and hatchery coho may be retained.

Camp Creek (Snohomish County) (Whitechuck River tributary): First Saturday in June through October 31 season. Selective gear rules.

Campbell Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Campbell Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish. Unlawful to fish from a floating device equipped with an internal combustion motor.

Campbell Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches.

Canyon Creek (Clark County): Trout: Daily limit five.

Canyon Creek (Snohomish County) (Suitttle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County): From mouth to the forks: The first Saturday in June through ~~(February 15)~~ January 31 season. Release all fish except up to two hatchery steelhead may be retained.

Canyon Creek (Whatcom County) (North Fork Nooksack River): From Canyon Creek Road Bridge upstream: First Saturday in June through October 31 season. Selective gear rules.

Canyon River (Mason County and Grays Harbor County): Closed waters.

Capitol Lake (Thurston County): Closed to all fishing.

Carbon River (Pierce County): From its mouth to Voight Creek: September 1 through ~~(last day in February)~~ January 15 season. Anti-snagging rule, night closure and single point

barbless hooks required September 1 through November 30. Trout: Minimum length fourteen inches September 1 through November 30. December 1 through last day of February selective gear rules and release all fish except up to two hatchery steelhead may be retained. Voight Creek to Highway 162 Bridge: November 1 through ~~(last day in February season)~~ January 15: Selective gear rules and release all fish except up to two hatchery steelhead may be retained. Salmon: Open only September 1 through November 30 mouth to Voight Creek. Daily limit 6 fish of which no more than 4 may be adult salmon and of these 4 fish no more than 2 may be adult hatchery Chinook. Release chum and wild adult Chinook salmon.

Carlisle Lake (Lewis County): ~~(Last)~~ Fourth Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carl's Lake (Pend Oreille County): ~~(Last)~~ Fourth Saturday in April through October 31 season.

Carney Lake (Pierce County): ~~(Last)~~ Fourth Saturday in April through June 30 and September 1 through November 30 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee. Salmon: Landlocked salmon rules apply.

Carson Lake (Mason County): ~~(Last)~~ Fourth Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): ~~(Last)~~ Fourth Saturday in April through October 31 season.

Cascade River (Skagit County):

From the mouth to the Rockport-Cascade Road Bridge: June 1 through July 15 and September 16 through ~~(last day in)~~ February 15 season. All species: Anti-snagging rule and night closure June 1 through July 15 and September 16 through November 30. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open June 1 through July 15. Daily limit 4 hatchery Chinook, of which no more than 2 may be adult hatchery Chinook. Open September 16 through November 30. Daily limit 4 coho salmon.

From the Rockport-Cascade Road Bridge upstream: The first Saturday in June through ~~(last day in February)~~ January 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to two hatchery steelhead may be retained per day.

Cases Pond (Pacific County): ~~(Last)~~ Fourth Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cassidy Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Castle Lake (Cowlitz County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): April 1 through September 30 season.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cayada Creek (Pierce County) (Carbon River tributary): First Saturday in June through October 31 season.

Cedar Creek (tributary of N.F. Lewis) (Clark County)((-)): From mouth to Grist Mill Bridge: First Saturday in June through August 31 and November 1 through March 15 seasons. Trout: Release all fish except up to two hatchery steelhead may be retained per day. From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. From 100 feet upstream of the falls upstream: The first Saturday in June through August 31 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cedar Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. All species: Selective gear rules.

Cedar Creek (Jefferson County), outside Olympic National Park: The first Saturday in June through last day in February season. Trout: Minimum length 14 inches. Selective gear rules. Other game fish: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches.

Cedar Creek (Mason County): First Saturday in June through October 31 season.

Cedar Creek (Okanogan County)((-)): From mouth to Cedar Falls: Closed waters.

Cedar Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Cedar Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Cedar River (King County)((-)): From mouth to Landsburg Road: The first Saturday in June through August 31 season. Selective gear rules and night closure. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout.

Cedar River (Pacific County): First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All ~~((species: Release all fish except up to two hatchery steelhead per day may be retained))~~ game fish: Catch and release only.

Chain Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Release kokanee.

Chambers Creek (Pierce County): July 1 through November 15 season. All species: Selective gear rules and night closure. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout.

Chambers Creek from the mouth to markers 400 feet below the Boise-Cascade Dam (Pierce County): July 1 through November 15 season. Night closure and anti-snagging rule. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

From Boise-Cascade Dam to Steilacoom Lake: July 1 through October 31 season. Night closure and anti-snagging rule. Selective gear rules. Trout: Minimum size fourteen inches.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout.

Channel Creek (Skagit County) (Baker River tributary): First Saturday in June through September 15 season.

Chaplain ~~((Lake))~~ Creek (Snohomish County)~~((Closed waters-))~~ (Sultan River tributary) and its tributaries including beaver ponds from above the waterfall at the mouth to the dam at Chapman Lake: First Saturday in June through October 31 season.

Chapman Lake (Spokane County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County)((-))(including all channels, sloughs, and interconnected waterways): From Highway 101 Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell): The first Saturday in June through April 15 season. ~~((Single-point barbless hooks required August 16 through November 30.))~~ Trout: Minimum length fourteen inches. Salmon: From mouth to Fuller Bridge: Open September 16 through January 31. September 16 through October 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and Chinook. November 1 through January 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho. From Fuller Bridge to Porter Bridge: Open September 16 through January 31. September 16 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and Chinook. December 1 through January 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho. From Porter Bridge to high bridge on Weyerhaeuser 1000 line: Open October 16 through January 31. October 16 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and Chinook. December 1 through January 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho. Sturgeon: Open year-round, and no night closure from mouth to high bridge on Weyerhaeuser 1000 line.



~~((From the High Bridge on Weyerhaeuser 1000 line, upstream, including all forks and tributaries: The first Saturday in June through April 15 season.))~~ From Highway 101 Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell, including all forks): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish, except up to 2 hatchery steelhead may be retained per day.

Chehalis River, South Fork (Lewis County)~~((;))~~: From mouth to Highway Bridge at Boistfort School: The first Saturday in June through April 15 season. Trout: Minimum length fourteen inches.

From Highway Bridge at Boistfort School upstream: Trout: First Saturday in June through October 31 season. Minimum length eight inches. Selective gear rules. Other game fish: Selective gear rules.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): ~~((East))~~ Fourth Saturday in April through October 31 season.

Chelan Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Closed waters: Within 400 feet of all tributaries south of a line from Purple Point at Stehekin and Painted Rocks. Trout except kokanee and lake trout: Daily limit 5. Release wild cutthroat. Lake trout not counted in daily trout limit. Lake trout no minimum size, no daily limit. Kokanee not counted in daily trout limit. Kokanee daily limit 10, no minimum length. North of a line between Purple Point at Stehekin and Painted Rocks: April 1 through July 31: All game fish: Release all fish except lake trout. Salmon and lake trout: Open year-round: Salmon daily limit 1, minimum length 15 inches.

Chelan Lake Tributaries (Chelan County)~~((;))~~: From mouths upstream one mile except Stehekin River: August 1 through September 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release wild cutthroat.

Chelan River (Chelan County): From the railroad bridge to the Chelan P.U.D. safety barrier below the power house: May 15 through August 31 season. Anti-snagging rule. Trout: Release all trout.

Chester Creek (Grays Harbor County): The first Saturday in June through last day in October season. All species: Selective gear rules.

Chenois Creek (Grays Harbor County): First Saturday in June through October 31 season. All species: Selective gear rules.

Chewuch River (Chewack River) (Okanogan County)~~((;))~~: From mouth to Eight Mile Creek: The first Saturday in June through August 15 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters the first Saturday in June through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Whitefish gear rules apply.

Chikamin Creek (Chelan County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Chiliwack River (Whatcom County) including all tributaries and their tributaries: First Saturday in June through October 31 season.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: The first Saturday in June through August 31 season. Selective gear rules and release all fish.

From Ness's Corner Road to headwaters: First Saturday in June through October 31 season. Selective gear rules and release all fish.

Chiwaukum Creek (Chelan County): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

Chopaka Lake (Okanogan County): ~~((East))~~ Fourth Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Church Creek (Mason County) upstream of bridge on U.S. Forest Service Road #2361: First Saturday in June through October 31 season.

Cispus River (Lewis County)~~((;))~~: From mouth to North Fork: Trout: Release all cutthroat. Additional season November 1 through the Friday before the first Saturday in June. Trout: Release all trout except up to two hatchery steelhead may be retained per day. Salmon: Open year around. Salmon minimum size 8 inches. January 1 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild coho and wild Chinook. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release wild coho.

Cispus River, North Fork (Lewis County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: No more than one over twelve inches in length. Release cutthroat.

Clallam River (Clallam County): The first Saturday in June through ~~((October))~~ January 31 season. Selective gear rules ~~((and))~~. Release all fish~~((-Additional))~~ except November 1 through ~~((last day in February))~~ January 31 season. ~~((Trout: Minimum length fourteen inches.))~~ Up to 2 hatchery steelhead may be retained.

Clara Lake (Mason County): ~~((East))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Clarks Creek (Pierce County): From mouth to 12th Avenue SE: First Saturday in June through August 15: Two trout over 14 inches in length. Selective gear rules apply.

Clear Creek (Chelan County): Closed waters.

Clear Creek (Snohomish County) (Sauk River tributary): From Asbestos Creek Falls to source: First Saturday in June through October 31 season.

Clear Lake (Chelan County): ~~((Last))~~ Fourth Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Clear Lake (Pierce County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Chumming permitted. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee. Salmon: Landlocked salmon rules apply.

Clear Lake (Spokane County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Clear Lake (Thurston County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Clearwater River (Jefferson County):

From mouth to Snahapish River: The first Saturday in June through April 15 season. Trout: Minimum length fourteen inches. February 16 through April ~~((15))~~ 30, ~~((one wild))~~ steelhead ~~((per day may be retained))~~ retention allowed. Salmon: ~~((Open only))~~ September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon, minimum length 12 inches.

From Snahapish River upstream: First Saturday in June through October 31 season. Trout~~((:))~~: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Clearwater River (Pierce County): July 1 through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size.

Cle Elum River (Kittitas County)~~((:))~~: From mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Year-round season. Unlawful to fish from a floating device equipped with an internal combustion motor. Selective gear rules, except December 1 through March 31 bait and one single point barbed hook three-sixteenths or smaller point to shank may be used. Trout: Release all trout. Above Cle Elum Lake to outlet of Hvas Lake except Tucquala Lake: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to the outlet ~~((of))~~ at Stump Lake: The first Saturday in June through last day in February season. Trout: Minimum length fourteen inches.

~~((From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length fourteen inches.))~~ From the outlet at Stump Lake upstream: First Saturday in June through October 31 season. Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Clover Creek (Pierce County) upstream of Steilacoom Lake, including all tributaries: July 2 through October 31 season.

Coal Creek (Cowlitz County)~~((:))~~: From mouth to four hundred feet below falls: The first Saturday in June through August 31 and November 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Coal Creek (tributary of Lake Washington) (King County): The first Saturday in June through August 31 season. Juveniles only.

Coal Creek (near Snoqualmie) (King County)~~((:))~~: From mouth to Highway I-90: ~~((Last))~~ Fourth Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

From Highway I-90 upstream. First Saturday in June through October 31 season.

Coffee Pot Lake (Lincoln County): March 1 through September 30 season. Selective gear rules. Trout: Daily limit one, minimum length eighteen inches. Crappie: Daily limit ten, minimum length nine inches.

Coldwater Lake (Cowlitz County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Collins Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with Rocky Coulee Wasteway: April 1 through September 30 season. Juveniles and holders of reduced fee licenses or designated harvester cards only. Trout: No minimum size, daily limit three.

Columbia Park Pond (Benton County): Juveniles and holders of reduced fee licenses or designated harvester cards only. All species: Daily limit of five fish combined.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Below McNary Dam: Daily limit five fish, bass 12 to 17 inches in length may be retained. Up to but not more than three of the daily limit may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout.

Whitefish: Daily limit 15 fish. All other game fish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except Camas Slough, where the license of either state is valid when fishing from a floating device.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

Anglers may not 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.

From a true north-south line through Buoy 10, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank: Trout: Release all trout except hatchery steelhead. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during both Area 1 and Buoy 10 salmon season openings, and the daily limit is the more liberal if both areas are open. Salmon and steelhead: Open only June 16 through March 31. June 16 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead, or one of each. Release all salmon other than sockeye and hatchery Chinook. Closed to fishing for salmon and steelhead from Buoy 10 to the Megler-Astoria Bridge. August 1 through August 28, daily limit 2 salmon or 2 hatchery steelhead or one of each; only 1 may be a Chinook. Release all salmon except Chinook and hatchery coho. Chinook minimum length 24 inches. Coho minimum length 16 inches. August 29 through September 30, daily limit 2 hatchery coho or 2 hatchery steelhead or one of each. Release all salmon other than hatchery coho. Coho minimum length 16 inches. October 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead, or one of each. Release all salmon except Chinook and hatchery coho. January 1 through March 31, daily limit 6 fish, of which no more than 2 may be adult hatchery Chinook salmon or hatchery steelhead or one of each. Release all salmon except hatchery Chinook. Fishing from the north jetty for salmon open during both Area 1 and Buoy 10 fishery openings and the daily limit is the more liberal if both areas are open. Sturgeon: Release sturgeon May 1 through May 13, June 27 through June 30, and July 5 through December 31. Minimum size when open to retain sturgeon is 38 inches fork length January 1 through April 30, and 41 inches fork length May 14 through July 4. Bottomfish: Daily limits, seasons, size restrictions and gear restrictions are the same as those in the adjacent portion of Marine Area 1.

From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, upstream to the I-5 Bridge: Trout: Release all trout except hatchery steelhead and hatchery cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no

more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon and steelhead: Open only May 16 through March 31. May 16 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except sockeye and hatchery Chinook. May 16 through June 15, release adult Chinook. August 1 through September 9, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each; of the adult salmon, only 1 may be a Chinook. Release all salmon except Chinook and hatchery coho. September 10 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except Chinook and hatchery coho, and September 10 through September 30 release Chinook downstream of a line projected from the Warrior Rock Lighthouse, through Red Buoy #4, to the orange marker atop the dolphin on the Washington shore. January 1 through March 31, daily limit 6 fish, of which no more than 2 may be adult hatchery Chinook or hatchery steelhead or one of each. Release all salmon except hatchery Chinook. Sturgeon: (1) Release sturgeon May 1 through May 13, June 27 through June 30, and July 5 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is 38 inches fork length January 1 through April 30, and 41 inches fork length May 14 through July 4; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from January 1 through July 31, and October 8 through December 31. Release sturgeon on other days and during other time periods.

From the I-5 Bridge to the Highway 395 Bridge at Pasco: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder, and closed to fishing from a floating device or fishing by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. August 1 through October 15: Salmon and steelhead: Anti-snagging rule from Bonneville Dam to McNary Dam and night closure from Bonneville Dam to The Dalles Dam. Trout: Release all trout except hatchery steelhead. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Snake River Confluence Protection Area: From the first powerline crossing the Columbia upstream of Sacajawea State Park to the railroad bridge between Burbank and Kennewick: All species: Daily limits, seasons, size restrictions and gear restrictions are the same as those in the adjacent por-

tion of the Snake River. Sturgeon: (1) Sturgeon fishing is closed from Bonneville Dam to a line from a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder to the downstream end of Cascade Island to an Oregon angling boundary on Bradford Island (the Cascade Island - Bradford Island line). (2) It is unlawful to fish for sturgeon from May 1 through August 31 from Cascade Island - Bradford Island line downstream 9 miles to a line crossing the Columbia River from navigation marker 82 on the Oregon shore, through the upstream exposed end of Skamania Island, continuing in a straight line to a boundary marker on the Washington shore (navigational marker 82 line), and May 1 through July 31 from 400 feet below McNary Dam to the Highway 82 Bridge and from John Day Dam downstream to a line crossing the Columbia at a right angle to the thread of the river from the west end of the grain silo at Rufus, Oregon. (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from January 1 through July 31 and October 8 through December 31, except for May 1 - August 31 closure downstream to the navigation marker 82 line. Release sturgeon on other days and during other time periods. (4) Release sturgeon August 1 through December 31 from the upstream line of Bonneville Dam and 400 feet below McNary Dam. (5) From the Hamilton Island boat launch (USACE boat restricted zone boundary) to Bonneville Dam, anglers must stop fishing for sturgeon once a daily limit has been retained. (6) Release sturgeon from August 1 through January 31 from McNary Dam to the Highway 395 Bridge at Pasco. Salmon and steelhead: From I-5 Bridge to Bonneville Dam: Open June 16 through December 31 except salmon closed November 1 through December 31 from Beacon Rock to Bonneville Dam. June 16 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except sockeye and hatchery Chinook. August 1 through September 9, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each; of the adult salmon, only 1 may be a Chinook. Release all salmon except Chinook and hatchery coho. September 10 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except Chinook and hatchery coho. Steelhead: Additional season January 1 through March 31. Daily limit 2. From Bonneville Dam to Highway 395 Bridge at Pasco: Open June 16 through December 31. June 16 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except sockeye and hatchery Chinook. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except Chinook and coho. Release wild coho from Bonneville Dam to Hood River Bridge. Steelhead: Additional season January 1 through March 31. Daily limit 2.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Area Bank Fishery waters: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout, except up to two hatchery steelhead

having both adipose and ventral fin clips may be retained per day, October 1 through October 31. Release all trout, except up to two hatchery steelhead may be retained per day, November 1 through March 31. Salmon: Open June 16 through July 31. Daily limit 6 fish, of which no more than 2 may be adult hatchery Chinook. Release all salmon other than hatchery Chinook. Open August 1 through October 22. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release sockeye. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Ringold Area Bank Fishery waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet, to WDFW markers 1/2 mile upstream from Spring Creek): Open only April 1 through April 15, except closed for salmon fishing. Fishing allowed only from the bank and only on the hatchery side of the river. Trout: Release all trout, except hatchery steelhead. Salmon: Open only May 1 through June 30. Fishing allowed only from the bank and only on the hatchery side of the river. Daily limit two hatchery Chinook. Night closure. Sturgeon: Release sturgeon from August 1 through January 31.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): February 1 through October 22 season. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open June 16 through July 31. Daily limit 6 fish of which no more than 2 fish may be adult hatchery Chinook. Release all salmon except hatchery Chinook. Open August 1 through October 22. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release sockeye. Sturgeon: Release sturgeon from August 1 through October 22.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - Waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - All waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open June 16 through July 31. Daily limit 6 fish of which no more than 2 may be adult hatchery salmon. Release all salmon except hatchery Chinook. Open August 1 through October 22. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release sockeye. Sturgeon: Release sturgeon from August 1 through January 31. Closed to fishing for sturgeon from May 1 through July 31 from the boundary marker on the river bank 400 feet downstream from Priest Rapids Hatchery outlet channel (Jackson Creek) to Priest Rapids Dam.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - Waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet

downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - Waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - Waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - Closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to fishing from a floating device from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. All species: Anti-snagging rule and night closure from Rocky Reach Dam to the most upriver edge of Turtle Rock. Salmon: From Priest Rapids Dam to Wanapum Dam, open July 1 through October 22. July 1 through August 31, daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of the 3 adult salmon, only 1 may be a wild adult Chinook. September 1 through October 22, daily limit 6 Chinook, of which no more than 2 may be adult salmon. From Wanapum Dam to Wells Dam, open July 1 through October 15. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of the 3 adult salmon, only 1 may be a wild adult Chinook. From Wells Dam to Highway 173 Bridge at Brewster: Open July 1 through August 31. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of the 3 adult salmon, only 1 may be a wild adult Chinook. From Highway 173 Bridge at Brewster to Highway 17 Bridge at Bridgeport: Open July 1 through October 15. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of the 3 adult salmon, only 1 may be a wild adult Chinook. Sturgeon: Release all sturgeon.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year-round season. Trout: Daily limit five fish, not more than two of which may be brown trout October 1 through November 30. Walleye: Daily limit 8 fish. No minimum size. Not more than one walleye greater than 22 inches may be retained. Sturgeon: Unlawful to fish for or retain sturgeon.

From bridge at Valley upstream and tributaries: Saturday before Memorial Day through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Conconully Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County)(~~(?)~~): From four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season.

Connor Creek (Grays Harbor County): From mouth upstream: The first Saturday in June through October 31 season. Trout: Minimum length fourteen inches. All species: Selective gear rules.

Cook Creek (Grays Harbor County): From Quinault Indian Reservation boundary upstream: First Saturday in June through October 31 season. Trout: Minimum length fourteen inches. All species: Selective gear rules.

Cooper River (Kittitas County): Mouth to Cooper Lake: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Coot Lake (Grant County): April 1 through September 30 season.

Copalis River (Grays Harbor County): The first Saturday in June through last day in February season.

From mouth to Carlisle Bridge: Trout: Minimum length fourteen inches. Hatchery steelhead defined as having a dorsal fin height of less than 2 1/2 inches or with an adipose or ventral fin. Salmon: Open only September 1 through January 31 from mouth to Carlisle Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and adult Chinook.

From Carlisle Bridge upstream: Trout: Minimum length fourteen inches.

Copper Creek (Snohomish County) (Clear Creek tributary, a tributary of Sauk River): All game fish: First Saturday in June through October 31 season.

Corral Canyon Creek (Benton County): Selective gear rules.

Cottage Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year-round season.

Cottonwood Creek (Walla Walla County): Closed waters.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): The first Saturday in June through August 31 season.

Cougar Lake (Pasayten Wilderness) (Okanogan County): All species: Selective gear rules.

Cougar Lake (near Winthrop) (Okanogan County): April 1 through August 31 - All species: Release all fish.

Coulter Creek (Kitsap/Mason counties): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

County Line Ponds (Skagit County): Closed waters.

Coweeman River (Cowlitz County)(~~(?)~~): From mouth to Mulholland Creek: The first Saturday in June through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. From Mulholland Creek upstream: The first Saturday in June through August 31 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cowiche Creek (Yakima County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only June 1 through last day in February. January 1 through last day in February and June 1 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild coho and wild Chinook. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release wild coho.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Closed waters: (1) 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. (2) From 400 feet below the Mayfield powerhouse upstream to Mayfield Dam. (3) Within a 100 foot radius of the new Cowlitz Trout Hatchery outfall structure except anglers who permanently use a wheelchair may fish within posted markers when adjacent waters are open. Year-round season except closed to fishing from south bank May 1 through June 15 from Mill Creek to the Cowlitz salmon hatchery barrier dam. Lawful to fish up to four hundred feet or the posted deadline at the Cowlitz salmon hatchery barrier dam. Lawful to fish up to Tacoma Power safety signs at Onion Rock below Mossyrock Dam. Lawful to fish up to Lewis County P.U.D. safety signs below Cowlitz Falls Dam. From the Cowlitz salmon hatchery barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. Anti-snagging rule and night closure April 1 through November 30 from mouth of Mill Creek to the Cowlitz salmon hatchery barrier dam. When anti-snagging rule is in effect, only fish hooked inside the mouth may be retained. All game fish: Release all fish April 1 through the Friday before the first Saturday in June except up to 2 hatchery steelhead may be retained. Trout: The first Saturday in June through March 31, daily limit five, minimum length twelve inches, no more than two over twenty inches, except release wild cutthroat. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release all salmon except hatchery Chinook and hatchery coho. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

From posted PUD sign on Peters Road to mouth of Ohanapecosh River and mouth of Muddy Fork: Anti-snagging rule and night closure September 1 through October 31 for all species. When anti-snagging rule is in effect, only fish

hooked in the mouth may be retained. Trout: Release cutthroat. Additional November 1 through Friday before the first Saturday in June season. Trout: Release all trout except up to 2 hatchery steelhead may be retained per day. Salmon: Open year-round from upstream boundary of Lake Scanewa. Minimum size 12 inches. January 1 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild coho and wild Chinook. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release wild coho.

Cowlitz River, Clear and Muddy Forks (Lewis County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release cutthroat.

Coyote Creek and Ponds (Adams County): April 1 through September 30 season.

Crab Creek (Adams/Grant counties):

From (~~(Highway 26)~~) mouth to Morgan Lake Road in Section 36: April 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln/Grant counties) and tributaries: Year-round season. In those waters from Grant County Road 7 to the fountain buoy and shoreline markers or 150 feet downstream of the Alder Street fill March 1 through May 31 terminal gear restricted to one single hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Moses Lake. From Moses Lake downstream to the confluence of the outlet streams March 1 through May 31 terminal gear restricted to one single-point hook measuring 3/4 inch or less point to shank. Year-round: Daily limits and size limits same as Potholes Reservoir.

Crabapple Lake (Snohomish County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Cranberry Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Crawfish Lake (Okanogan County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Crescent Lake (Pend Oreille County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Crescent Lake (Pierce County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Crim Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit

2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Crocker Lake (Jefferson County): Closed waters.

Crooked Creek (Clallam County) and tributaries that are outside of Olympia National Park: The first Saturday in June through October 15 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules. Release kokanee.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): (~~Last~~) Fourth Saturday in April through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Dakota Creek (Whatcom County): First Saturday in June through October 31 season. Selective gear rules. Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

Dalton Lake (Franklin County): Trout: No more than two over 13 inches in length may be retained.

Damon Lake (Grays Harbor County): The first Saturday in June through October 31 season.

Dan's Creek (Snohomish County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Davis Lake (Ferry County): (~~Last~~) Fourth Saturday in April through October 31 season.

Davis Lake (Lewis County): (~~Last~~) Fourth Saturday in April to last day in February season.

Davis Lake (Okanogan County): April 1 through August 31: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Davis Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles, anglers with reduced-fee licenses or designated harvesters only. Trout: No more than 2 trout over 13 inches in length may be retained.

Deadman Lake (Adams County): April 1 through September 30 season.

De Coursey Pond (Pierce County): (~~Last~~) Fourth Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Decker Creek (Mason County) (Satsop River tributary): From mouth upstream: First Saturday in June through October 31 season. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Deep Creek (Clallam County): December 1 through (~~Last day in February~~) January 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained per day.

Deep Creek (Grays Harbor County): From mouth upstream: The first Saturday in June through last day in October season. All species: Selective gear rules.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): (~~Last~~) Fourth Saturday in April through September 30 season.

Deep Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season.

Deep Lake (Thurston County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Deep River (Wahkiakum County): Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round only from mouth to town bridge. January 1 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release wild Chinook and wild coho. August 1 through December 31, daily limit 6 fish of which no more than 2 may be adult Chinook. Release chum and wild coho. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Deer Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Deer Lake (Island County): (~~Last~~) Fourth Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): (~~Last~~) Fourth Saturday in April through September 30 season.

Deer Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Deer Lake (Stevens County): March 1 through October 31 season. Trout: No more than two over thirty inches in length may be retained.

Delemeter Creek (Cowlitz County): Closed waters from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek.

Delezene Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. All species: Selective gear rules.

Dempsey Creek (Thurston County) (Black River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

De Roux Creek (Kittitas County): Mouth to the USFS Trail #1392 (De Roux Cr. Trail) stream crossing (approximately one river mile): Closed waters. Upstream of USFS Trail #1392 stream crossing: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Deschutes River (Thurston County): From old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park: The first Saturday in June through October 15 season. Anti-snagging rule and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through October 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From Henderson Boulevard Bridge upstream: Year-round season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout. Salmon: Open only July 1 through October 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Devereaux Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Devil's Lake (Jefferson County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Dewatto River (Mason County): First Saturday in June through August 15 and October 1 through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Night closure October 1 through October 31 from mouth to Dewatto-Holly Road Bridge. Game fish: Release all fish. Salmon: Open only October 1 through October 31 mouth to Dewatto-Holly Road Bridge. Daily limit two coho. Release all salmon other than coho.

Diamond Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Dickey River (Clallam County): ~~((The))~~ From Olympic Park boundary upstream to D5200 Road on the East Fork Dickey River: First Saturday in June through April 30 season ((in mainstem Dickey outside Olympic National Park and East Fork Dickey upstream to D5200 road and the first Saturday in June through March 15 in East Fork Dickey upstream from D5200 road and West Fork Dickey)). Trout: Minimum length fourteen inches. February 16 through April 30, ~~((one))~~ retention allowed. Salmon: ~~((Open only))~~ July 1 through November 30 from mouth to East Fork Dickey. July 1 through August 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult Chinook and wild adult coho. September 1 through November 30, daily limit 6 fish of which no more

than 4 may be adult salmon, and of the 4 adult salmon, no more than 2 may be any combination of Chinook, wild coho, pink, sockeye, and chum salmon.

East Fork Dickey from D5200 Road upstream and West Fork Dickey: First Saturday in June through March 15 season. Trout: Minimum length fourteen inches. Selective gear rules apply. Other game fish: Selective gear rules apply.

Dillacort Creek (Klickitat County): Trout: Release all trout.

Diobsud Creek (Skagit County): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Dog Lake (Yakima County): Trout: Daily limit may contain no more than 1 fish over 14 inches in length.

Dogfish Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Donkey Creek (Grays Harbor County): From mouth upstream: The first Saturday in June through last day in October season. All species: Selective gear rules.

Donovan Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Dosewallips River (Jefferson County)~~((;))~~: From mouth to Olympic National Park boundary about three-quarters mile downstream of falls: The first Saturday in June through August 31 season mouth to park boundary and November 1 through December 15 season mouth to Highway 101 Bridge. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor the first Saturday in June through August 31. All species: Release all fish except salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downey Creek (Snohomish County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Downs Lake (Lincoln/Spokane counties): March 1 through September 30 season. Crappie: Daily limit ten, minimum length nine inches.

Dry Creek (Walla Walla County): Upstream from the middle Waitsburg Road: Closed waters.

Dry Falls Lake (Grant County): April 1 through November 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten, minimum length nine inches.

Duckabush River (Jefferson County)~~((;))~~: From mouth to the Olympic National Park Boundary: The first Saturday in June through August 31 season mouth to park boundary and



November 1 through December 15 season mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor the first Saturday in June through August 31. All species: Release all fish except salmon may be retained November 1 through December 15. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dune Lake (Grant County): All species: Selective gear rules. Trout: Daily limit 1.

Dungeness River (Clallam County):

From mouth to forks at Dungeness Campground: October 16 through ~~((last day in February))~~ January 31 season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 4 coho salmon.

From junction of Gold Creek upstream to headwaters: First Saturday in June ~~((through October 31 season))~~.

Dusty Lake (Grant County): March 1 through November 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one fish.

Dyes Inlet (Kitsap County)~~((--))~~: All streams: First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Eaton Creek (Thurston County) (Lake St. Clair tributary): First Saturday in June through October 31 season. Selective gear rules.

Early Winters Creek (Okanogan County): Closed waters.

East Fork Wildcat Creek (Grays Harbor County) (Cloqualum Creek tributary): From mouth upstream: The first Saturday in June through October 31 season. Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

East Little Walla Walla River (Walla Walla County): Closed waters.

East Twin River (Clallam County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Easton Lake (Kittitas County): Saturday before Memorial Day through October 31 season. Trout: Daily limit five fish of which no more than 2 may be trout other than Eastern brook trout. Minimum length 8 inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Echo Lake (Snohomish County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Eglon Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.

Eight Creek (Lewis County) (tributary to Elk Creek, which is a Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Elk River (Grays Harbor County)~~((--))~~: From mouth to the ((Highway 105 Bridge upstream)) confluence of east and middle branches: The first Saturday in June through last day in February season. Single point barbless hooks required August 16 through November 30 ((downstream of the confluence of the east and middle branches)). Trout: Minimum length fourteen inches, daily limit 2 fish. Salmon: Open only October 1 through November 30 from Highway 105 Bridge to the confluence of the East and Middle Branches. Daily limit 2 fish. Release chum, Chinook, and wild coho.

From confluence of east and middle branches upstream: All species: Single point barbless hooks required August 16 through November 30. First Saturday in June through last day in February season. Trout: Minimum length fourteen inches.

Elk Creek, including Eight Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. All species: Selective gear rules.

Elkhorn Creek (Pacific County) (Smith River tributary): The first Saturday in June through October 31 season. All species: Selective gear rules.

Ell Lake (Okanogan County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Ellen Lake (Ferry County): ~~((Last))~~ Fourth Saturday in April through October 31 season. All species: Catch and release except up to five rainbow trout may be retained.

Elliot Creek (Snohomish County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules.

Ellis Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 15 season. Selective gear rules.

Ellsworth Creek (Pacific County) (Naselle River tributary): From mouth upstream: All game fish: First Saturday in June through September 30 season. Selective gear rules.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet

above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; from 200 feet above the department of fish and wildlife temporary weir downstream to Foster (Risk) Road Bridge while weir is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: The first Saturday in June through March 15 season. Anti-snagging rule, night closure, and stationary gear restriction August 1 through October 31. Trout: Release all fish except up to 2 hatchery steelhead may be retained per day. Salmon: Open the first Saturday in June through December 31. First Saturday in June through July 31, daily limit 6 hatchery Chinook, of which no more than 2 may be adults. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release chum, wild coho, and wild Chinook.

Eloika Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Elwha River (Clallam County): Through last day in February (~~(28;)~~) 2012: From mouth to downstream side of bridge on Elwha River Rd. October 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Salmon: Open October 1 through November 15. Daily limit 6 coho salmon of which no more than 4 may be adult coho salmon.

From downstream side of bridge on Elwha River Rd. to two hundred feet downstream of the south spillway on Elwha (Aldwell Lake) Dam. November 16 through last day in February season. Trout: Minimum length fourteen inches.

From Lake Aldwell upstream to Olympic National Park boundary, including all tributaries: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout except Eastern brook trout: Minimum length twelve inches. Eastern brook trout: No minimum size. Beginning March 1, 2012: From mouth upstream to Olympic National Park boundary, including all tributaries and remaining waters of Lake Aldwell: Closed waters. As the Elwha dam is removed, Lake Aldwell will recede.

Empire Lake (Ferry County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Entiat River (Chelan County)(~~(7;)~~): From mouth to Entiat Falls: December 1 through March 31 season. Whitefish gear rules apply. Above Entiat Falls: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit 5 trout, not more than one of which may be greater than 12 inches in length. Eastern brook trout not included in trout daily limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Ephrata Lake (Grant County): Closed waters.

Erie Lake (Skagit County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Evans Creek (Pierce County) (Carbon River tributary) from Carbon River-Fairfax Road upstream: First Saturday in June through October 31 season.

Failor Lake (Grays Harbor County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Trout: No more than two over 15 inches in length may be retained per day.

Fairchild Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 31 season. Selective gear rules.

Fall River Creek and all forks (Pacific County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

Falls Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 15 season. Selective gear rules.

Falls Creek (Snohomish County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules.

Fan Lake (Pend Oreille County): (~~(Last)~~) Fourth Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two.

Fern Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 15 season. Selective gear rules.

Ferry Lake (Ferry County): Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Finn Creek (Pacific County) (Nemah River North Fork tributary): First Saturday in June through October 31 season.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained. Perch: Daily limit 25.

Fish Lake (Ferry County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Fish Lake (Okanogan County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Fish Lake (Spokane County): (~~(Last)~~) Fourth Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County): Mouth to I-5 Bridge: First Saturday in June through October 31 season. Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: First Saturday in June through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): (~~Last~~) Fourth Saturday in April through September 30 season.

Fiske Creek (Pierce County) (Puyallup River tributary): Upstream from Fiske Road: First Saturday in June through October 31 season.

Forde Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season.

Fork Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 15 season. Selective gear rules.

Fort Borst Park Pond (Lewis County): (~~Last~~) Fourth Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond #2 (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season. Juveniles only.

Found Creek (Skagit County) (Cascade River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Fox Creek (Pierce County) (Puyallup River tributary): Upstream from Fiske Road: First Saturday in June through October 31 season.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Friday Creek (Whatcom County) (Samish River tributary): First Saturday in June through October 31 season. Selective gear rules.

Fulton Creek (Mason County): From mouth to falls at river mile 0.8: First Saturday in June through October 31 season. Selective gear rules and release all fish.

From falls at river mile 0.8 upstream: First Saturday in June through October 31 season.

Gadwall Lake (Grant County): April 1 through September 30 season.

Gale Creek (Pierce County) (South Prairie Creek tributary) upstream of confluence with Wilkeson Creek: First Saturday in June through October 31 season.

Gamble Creek (Kitsap County): First Saturday in June through October 31 season: Selective gear rules and release all fish.

Garfield Juvenile Pond (Whitman County): Juveniles only.

Garrard Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season.

Germany Creek (Cowlitz County)(~~;~~): From mouth to end of Germany Creek Road (approximately five miles): The first Saturday in June through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Gibbs Lake (Jefferson County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout.

Gillette Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season.

Gissberg Pond, North (Snohomish County): Juveniles only.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Goat Creek (Okanogan County): Closed waters.

Gobar Creek (tributary to Kalama River) (Cowlitz County): The first Saturday in June through March 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Golf Course Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

Goodell Creek (Skagit County): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Goodman Creek (Jefferson County): Outside Olympic National Park: The first Saturday in June through last day in February season. Trout(~~;~~): Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Goodwin Lake (Snohomish County): Chumming permitted.

Goose Creek (Lincoln County)(~~(?)~~): Within the city limits of Wilbur: Year around season. Juveniles and holders of reduced fee licenses or designated harvester cards only.

Goose Lake, Lower (Adams County): Crappie: Daily limit ten, minimum length nine inches. Bluegill: Not more than five over six inches in length.

Goss Lake (Island County): (~~Last~~) Fourth Saturday in April through October 31 season.

Grade Creek (Snohomish County) (Suitttle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year-round season. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor September 1 through May 31. Trout: Minimum length ten inches, maximum length twenty inches. Channel catfish: No daily limit mouth to Oregon state line.

From County Road Bridge upstream to Oregon state line and all tributaries: Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor the first Saturday in June through August 31 and barbless hooks required September 1 through October 31. Additional season November 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Grass Creek (Grays Harbor County): From mouth upstream: First Saturday in June through October 31 season. All species: Selective gear rules.

Grass Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Gray Wolf River (Clallam County): From bridge at river mile 1.0 upstream: First Saturday in June through October 31 season. All species: Selective gear rules and release all fish. Unlawful to fish from a floating device equipped with an internal combustion motor.

Grays River (Wahkiakum County)(~~(?)~~): From mouth to Highway 4 Bridge: First Saturday in June through March 15 season; and from Highway 4 Bridge to mouth of South Fork: First Saturday in June through October 15 and December 1 through March 15 season. Closed waters from 400 feet above to 200 feet above the temporary weir while the weir is installed in the river. Anti-snagging rule, night closure and stationary gear restriction from mouth to Highway 4 Bridge August 1 through November 15 and from Highway 4 Bridge to mouth of South Fork August 1 through October 15. All game fish: Release all fish except up to 2 hatchery steelhead

may be retained per day. Salmon: From mouth to Highway 4 Bridge: Open first Saturday in June through December 31. First Saturday in June through July 31, daily limit 6 hatchery Chinook, of which no more than 2 may be adults. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release chum, wild coho, and unmarked Chinook. Unmarked Chinook are Chinook without either a clipped ventral fin or a clipped adipose fin. From Highway 4 Bridge to South Fork: Open first Saturday in June through October 15 and December 1 through December 31. First Saturday in June through July 31, daily limit 6 hatchery Chinook, of which no more than 2 may be adults. August 1 through October 15 and December 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release chum, wild coho and unmarked Chinook. Unmarked Chinook are Chinook without either a clipped ventral fin or a clipped adipose fin.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all fish except up to 2 hatchery steelhead may be retained per day.

Grays River, West Fork (Wahkiakum County)(~~(?)~~): Downstream from hatchery intake/footbridge: The first Saturday in June through March 15 season, except closed waters from posted markers approximately 300 yards below the hatchery road bridge downstream to mouth October 16 through November 30. August 1 through November 15: Anti-snagging rule, night closure and stationary gear restriction. October 16 through March 15: Release all fish except up to 2 hatchery steelhead may be retained per day. Salmon: Open from first Saturday in June through December 31. First Saturday in June through July 31, daily limit 6 hatchery Chinook, of which no more than 2 may be adults. August 1 through December 31, daily limit 6 fish, of which not more than 2 may be adult Chinook. Release chum, wild coho and unmarked Chinook. Unmarked Chinook are Chinook without either a clipped ventral fin or a clipped adipose fin.

Green Lake (Okanogan County): April 1 through November 30: Selective gear rules, and unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Green Lake (Lower) (Okanogan County): April 1 through November 30: Selective gear rules, and unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: The first Saturday in June through November 30 season except closed from 400 feet above to 400 feet below the water intake at the upper end of the hatchery grounds during the period September 1 through November 30 and from 400 feet or posted signs above and below the salmon hatchery rack when the rack is installed in the river. Anti-snagging rule and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All species: When anti-snagging rule in effect, only fish hooked inside the mouth may be retained. Trout:

Release all trout except hatchery steelhead. Salmon: Open August 1 through November 30. Daily limit 6 fish, of which not more than 2 may be adult Chinook. Release chum, wild coho, and wild Chinook.

From 2800 Bridge to Miner's Creek: Closed waters.

From Miner's Creek upstream: All species: Catch and release and selective gear rules.

Green (Duwamish) River (King County):

From the First Avenue South Bridge to Tukwila International Boulevard/Old Highway 99: The first Saturday in June through July 31 and September 1 through January 15 season. In years ending in odd numbers, additional season August 20 through August 31 with the following restrictions: Night closure, anti-snagging rule, bait prohibited, only 1 single-point hook may be used, and hook must measure less than 1/2 inch from point to shank. Anti-snagging rule and night closure September 1 through November 30. Fishing from any floating device prohibited November 1 through January 15. Trout: Minimum length fourteen inches. Salmon: In years ending in odd numbers, open August 20 through December 31. Daily limit 6 salmon, no more than 3 may be any combination of adult coho and adult chum. Release Chinook. In years ending in even numbers, open September 1 through December 31. Daily limit 6 salmon, no more than 3 may be adult salmon. Release Chinook.

From Tukwila International Boulevard/Old Highway 99 to the Interstate 405 Bridge: The first Saturday in June through July 31 and September 1 through January 15 season. In years ending in odd numbers, additional season August 20 through August 31 with the following restrictions: Night closure, anti-snagging rule, bait prohibited, only 1 single-point hook may be used, and hook must measure less than 1/2 inch from point to shank. Anti-snagging rule and night closure September 1 through November 30. Fishing from any floating device prohibited November 1 through January 15. Trout: Minimum length fourteen inches. Salmon: In years ending in odd numbers, open August 20 through December 31. Daily limit 6 salmon, no more than 3 may be any combination of adult coho and adult chum. Release Chinook. In years ending in even numbers, daily limit 6 salmon, no more than 3 may be adult salmon, and only 1 may be a Chinook.

From the Interstate 405 Bridge to South 277th Street Bridge in Auburn: Open only the first Saturday in June through July 31 and October 1 through January 15. In years ending in odd numbers, additional season September 1 through September 30 with the following restrictions: Night closure, anti-snagging rule, bait prohibited, only 1 single-point hook may be used, and hook must measure less than 1/2 inch from point to shank. Anti-snagging rule and night closure October 1 through November 30. Fishing from any floating device prohibited November 1 through January 15. Trout: Minimum length fourteen inches. Salmon: In years ending in odd numbers, open September 1 through December 31. Daily limit 6 salmon, no more than 3 may be any combination of adult coho and adult chum. Release Chinook. In years ending in even numbers, open October 1 through December 31. Daily limit 6 salmon, no more than 3 may be adult salmon. Release Chinook.

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: Open only the first Saturday in June through

August 15 and October 16 through January 31. In years ending in odd numbers, additional season September 16 through October 15 with the following restrictions: Night closure, anti-snagging rule, bait prohibited, only 1 single-point hook may be used, and hook must measure less than 1/2 inch from point to shank. Anti-snagging rule and night closure October 16 through November 30. Fishing from a floating device prohibited November 1 through January 31. Trout: Minimum length fourteen inches. Salmon: In years ending in odd numbers, open September 16 through December 31. Daily limit 6 salmon, no more than 3 may be any combination of adult coho and adult chum. Release Chinook. In years ending in even numbers, open October 16 through December 31. Daily limit 6 salmon, no more than 3 may be adult salmon. Release Chinook.

From the Auburn-Black Diamond Road Bridge to the water pipeline walk bridge (1/2 mile downstream of Tacoma Headworks Dam): The first Saturday in June through January 31. Anti-snagging rule and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length fourteen inches. Salmon: Open November 1 through December 31. In years ending in odd numbers, daily limit 6 salmon, no more than 3 may be any combination of adult coho and adult chum. Release Chinook. In years ending in even numbers, daily limit 6 salmon, no more than 3 may be adult salmon. Release Chinook.

From Friday Creek upstream, including all tributaries and their tributaries: First Saturday in June through October 31 season.

Greenwater River (King County), from mouth to Greenwater Lakes: November 1 through January 31 season. Release all fish except whitefish. Whitefish gear rules.

From Greenwater Lakes upstream: First Saturday in June through October 31 season.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

Groves Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Halfmoon Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 15 season. Selective gear rules.

Halfmoon Lake (Adams County): April 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): ~~((East))~~ Fourth Saturday in April through October 31 season.

Halfway Creek (Lewis County) (tributary of Stillman Creek which is a Chehalis River tributary): From mouth to second bridge crossing on Pe Ell McDonald Road: The first Saturday in June through October 31 season. Trout: Selective

gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Hamilton Creek (Skamania County): Trout: Release all fish except up to two hatchery steelhead may be retained per day. All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: The first Saturday in June through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

From falls upstream: First Saturday in June through October 31 season.

Hampton Lakes, Lower and Upper (Grant County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hanaford Creek (Lewis County) (Skookumchuck River tributary): From mouth upstream: All Species: Selective gear rules. Night closure and single point barbless hooks required from August 16 through November 30. Unlawful to fish from a floating device equipped with an internal combustion motor. The first Saturday in June through October 31 season. Trout: Minimum length eight inches.

Hancock Lake (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season. All tributary streams and the upper third of the outlet are closed waters. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Hansen Creek (Skagit County): Including all tributaries and their tributaries: First Saturday in June through October 31 season. Selective gear rules.

Harris Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Harris Lake (Grant County): All species: Selective gear rules. Trout: Daily limit 1.

Harrison Slough (Skagit County): All game fish: First Saturday in June through October 31 season.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Hatch Lake (Stevens County): December 1 through March 31 season. All species: Catch and release except up to five rainbow trout may be retained.

Hatchery Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Haven Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Hawk Creek and tributaries (Lincoln County): Year-round season.

Hays Creek and Ponds (Adams County): April 1 through September 30 season.

Headgate Pond (Asotin County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Juveniles, seniors and holders of reduced fee licenses or designated harvester cards only.

Heart Lake (near Anacortes) (Skagit County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Hen Lake (Grant County): April 1 through September 30 season.

Heritage Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Herman Lake (Adams County): April 1 through September 30 season.

Hicks Lake (Thurston County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Hilt Creek (Skagit County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Hog Canyon Creek (Spokane County): Hog Canyon Dam to Scroggie Road: Year-round season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County) ~~((outside of Olympic National Park))~~:

From Olympic National Park boundary upstream to DNR Oxbow Campground Boat Launch: All game fish: May ~~((14))~~ 16 through ~~((April 15 season. May 14 through))~~ the Friday before the first Saturday in June, open Wednesdays through Sundays ~~((only each week))~~, and release all game fish except up to 2 hatchery steelhead may be retained ~~((on open days))~~. Trout: First Saturday in June through April 15 ~~((, trout))~~ season. Minimum length fourteen inches. November 1 through February 15, daily limit ~~((may include))~~ 3 ~~((additional hatchery))~~ trout including steelhead. ~~((February 16 through April ~~((15))~~ 30, ~~((one))~~ wild steelhead ~~((per day may be retained))~~ retention allowed. Salmon: ~~((Open))~~ May ~~((14))~~ 16 through August 31, Wednesday through Sunday ~~((only each week))~~, daily limit 6 fish of which no more than 1 may be an adult salmon, minimum length 12 inches. Release wild Chinook. ~~((Open))~~ September 1 through~~

November 30, daily limit 6 fish of which no more than 2 may be adult salmon, minimum length 12 inches.

From DNR Oxbow Campground Boat Launch to Willoughby Creek: ~~((May 14 through April 15 season. Selective gear rules August 1 through October 15 and December 1 through April 15, and unlawful to fish from a floating device equipped with an internal combustion motor. May 14 through the Friday before the first Saturday in June, open Wednesday through Sunday only each week, and release all game fish except up to 2 hatchery steelhead may be retained on open days. First Saturday in June through April 15, trout: Minimum length fourteen inches. Salmon: Open May 14 through August 31, open Wednesday through Sunday only each week, daily limit 6 fish of which no more than 1 may be an adult salmon. Release wild Chinook. Open October 16 through November 30, daily limit 6 fish of which no more than 2 may be adult salmon.))~~ All species: August 1 through October 15 and December 1 through April 15: Selective gear rules. All game fish: May 16 through the Friday before the first Saturday in June, open Wednesdays through Sundays, and release all game fish except up to 2 hatchery steelhead may be retained. All game fish: First Saturday in June through April 15 season. Trout: Minimum length fourteen inches. Salmon: May 16 through August 31, Wednesdays through Sundays, daily limit 6 fish of which no more than 1 may be an adult. Release wild Chinook. Open October 16 through November 30, daily limit 6 fish of which no more than 2 may be adult salmon, minimum length of 12 inches.

From Willoughby Creek to Morgan's Crossing boat launch site: ~~((First Saturday in June through April 15 season. First Saturday in June through October 15 and December 1 through April 15 selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum size fourteen inches. Salmon: Open October 16 through November 30, daily limit 6 fish of which no more than 2 may be adult salmon.))~~ All species: First Saturday in June through October 15 and December 1 through April 15: Selective gear rules. All game fish: First Saturday in June through April 15 season. Trout: Minimum length fourteen inches. Salmon: May 16 through August 31, Wednesdays through Sundays, daily limit 6 fish of which no more than 1 may be an adult salmon, minimum length 12 inches. Open October 16 through November 30, daily limit 6 fish of which no more than 2 may be adult salmon, minimum length of 12 inches.

From Morgan's Crossing Boat Launch ((site)) upstream to Olympic National Park boundary below mouth of South Fork Hoh River: First Saturday in June through April 15 season. Trout: Minimum length 14 inches. Selective gear rules. ((Unlawful to fish from a floating device equipped with an internal combustion motor. Release all fish except up to 2 hatchery steelhead may be retained.)) Other game fish: Selective gear rules.

Hoh River, South Fork (Jefferson County)((-)): Outside Olympic National Park boundary: The first Saturday in June through April 15 season. Trout: Minimum length 14 inches. Selective gear rules. ((Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches.)) Other game fish: Selective gear rules.

Hoko River (Clallam County):

From mouth to upper Hoko Bridge: First Saturday in June through March 15 season. Fly fishing only September 1 through October 31. Trout: Minimum length fourteen inches.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): The first Saturday in June through March 31 season. Fly fishing only. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Homestead Lake (Grant County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one fish.

Hoquiam River, including ((aH)) West Fork(s) (Grays Harbor County): The first Saturday in June through last day of February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches, daily limit 2 fish. Salmon: Open October 1 through November 30 from mouth to Dekay Road Bridge (West Fork) on mainstem. Daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only 1 may be a wild coho. Release chum and Chinook. Open October 1 through November 30 on East Fork from mouth to mouth of Berryman Creek. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.

From Dekay Road Bridge upstream: All species: Single point barbless hooks required August 16 through November 30. First Saturday in June through last day of February season. Trout: Minimum length fourteen inches, daily limit 2 fish. All species: Selective gear rules.

Hoquiam River, East Fork (Grays Harbor County):

From mouth to confluence of Berryman Creek: The first Saturday in June through last day of February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches, daily limit 2 fish.

From confluence of Berryman Creek upstream to You-man's Road Bridge: The first Saturday in June through last day of February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches, daily limit 2 fish.

Hoquiam River, Middle Fork (Grays Harbor County): From mouth upstream: The first Saturday in June through last day of October season. Single point barbless hooks required August 16 through October 31. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Jefferson County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply. Trout: Daily limit 5, no more than two

over 14 inches in length may be retained, except no size restriction for kokanee.

Horseshoe Lake (Pend Oreille County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Horsethief Lake (Klickitat County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Hourglass Lake (Grant County): April 1 through September 30 season.

Howard Lake (Snohomish County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Howe Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Howell Lake (Mason County): (~~(Last)~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Hozomeen Lake (Whatcom County): July 1 through October 31 season. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Huff Lake (Pend Oreille County): Closed waters.

Humptulips River (Grays Harbor County): Including all channels, sloughs, and interconnected waterways from mouth (Jessie Slough) to Ocean Beach Road (near Copalis Crossing): (~~(From mouth to Ocean Beach Road:)~~) The first Saturday in June through March 31 season, except closed September 1 through September 30. Night closure and single-point barbless hooks required August 16 through August 31 and October 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open October 1 through January 31. Daily limit of 6 salmon, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only 1 may be a Chinook. Release chum and wild coho.

From Ocean Beach Road (near Copalis Crossing) to Highway 101 Bridge: The first Saturday in June through March 31 season, except closed September 1 through September 15. Night closure and single-point barbless hooks required August 16 through August 31 and September 16 through November 30. All species: Bait prohibited September 16 through September 30. Trout: Minimum length fourteen inches. Salmon: Open September 16 through January 31. Daily limit of 6 salmon, of which no more than two may be adult salmon, and of the 2 adult salmon, only one may be a Chinook. Release chum and wild coho.

From Highway 101 Bridge to the confluence of the East and West forks: The first Saturday in June through last day in February season. Night closure and single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. All game fish: Additional season March 1 through March 31 with the following restrictions: Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor. (~~(March 1 through March 31, game fish:)~~) Release all fish

except up to 2 hatchery steelhead may be retained. Salmon: Open September 16 through January 31. Daily limit of 6 salmon, of which no more than two may be adult salmon, and of the 2 adult salmon, only one may be a Chinook. Release chum and wild coho. Bait prohibited September 16 through September 30.

Humptulips River, East Fork (Grays Harbor County)(~~(?)~~): From mouth to concrete bridge on Forest Service Road (~~(between Humptulips Guard Station and Grisdale)~~): Anti-snagging rule and night closure August 16 through October 31. First Saturday in June through October 31 season. Trout: Minimum length fourteen inches.

From concrete bridge on Forest Service Road between Humptulips Guard Station upstream: The first Saturday in June through last day in October season. Anti-snagging rule and night closure August 16 through October 31. Trout: Minimum length fourteen inches. All species: Selective gear rules.

Humptulips River, West Fork (Grays Harbor County)(~~(?)~~): From mouth to Donkey Creek: The first Saturday in June through last day in February season. Anti-snagging rule and night closure August 16 through November 30. Trout: Minimum length fourteen inches. All game fish: Additional season March 1 through March 31. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. (~~(All species:)~~) Release all fish except up to two hatchery steelhead may be retained.

Hutchinson Creek (Whatcom County) (SF Nooksack tributary): First Saturday in June through October 31 season. All species: Selective gear rules. Trout: Minimum size fourteen inches.

Hutchinson Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Hylebos Creek (Pierce County): First Saturday in June through October 31 season. Two trout over 14 inches in length. Selective gear rules apply.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion motors prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Closed waters. From Leavenworth National Fish Hatchery rack upstream to Leland Creek: First Saturday in June through September 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Illabot Creek (Skagit County): First Saturday in June through October 31 season. Selective gear rules.

Illahoe Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.



Independence Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Indian Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Indian Creek (Yakima County): From mouth to waterfall approximately six miles upstream (including the portion of the creek that flows through the dry lakebed): Closed waters. Upstream of waterfall: Eastern brook trout do not count as part of trout daily limit. Eastern brook trout: No minimum size and no daily limit.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Ingall's Creek (Chelan County): Mouth to Wilderness boundary: Closed waters.

Isabella Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Island Lake (Kitsap County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Island Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Issaquah Creek (King County): The first Saturday in June through August 31 season. Juveniles only.

Jackman Creek (Skagit County): First Saturday in June through October 31 season. Selective gear rules.

Jackson Lake (Pierce County): (~~Last~~) Fourth Saturday in April through October 31 season.

Jameson Lake (Douglas County): (~~Last~~) Fourth Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Creek (Mason County): First Saturday in June through October 31 season.

Jefferson Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Jennings Park Pond (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): Mouth to confluence with East Fork: The first Saturday in June through August 31 season. Selective gear rules and release all fish.

From confluence with East Fork upstream, including East Fork: First Saturday in June through October 31 season.

Joe Creek (Grays Harbor County): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: The first Saturday in June through November 30 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 30. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release adult Chinook, and chum.

From Ocean Beach Road Bridge upstream: The first Saturday in June through October 31 season. Trout: Minimum length fourteen inches. All species: Selective gear rules.

Johns Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Johns River (Grays Harbor County): Mouth (Highway 101 Bridge) to Ballon Creek: The first Saturday in June through last day in February season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches, daily limit 2 fish. Salmon: Open only October 1 through November 30. Daily limit 2 fish, of which 1 may be wild coho. Release chum and Chinook.

From Ballon Creek upstream, including North and South Forks: The first Saturday in June through September 30 and December 1 through last day in February season. All species: Single point barbless hooks required August 16 through November 30. Trout: Minimum length 14 inches, daily limit 2 fish.

Johnson Creek (Lewis County) (~~((tributary to))~~) Cowlitz River tributary) (~~((Lewis County))~~): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length ten inches.

Johnson Creek (Thurston County) (Skookumchuck River tributary): From mouth upstream: All Species: Selective gear rules. The first Saturday in June through October 31 season. Trout: Minimum length eight inches.

Johnson Creek (Whatcom County)(~~(?)~~): From Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: First Saturday in June through October 31 season. Juveniles only.

Jones Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Jones Creek (Skagit County): First Saturday in June through October 31 season. Selective gear rules.

Jordan Creek (Skagit County) (Cascade River tributary): First Saturday in June through October 31 season. Selective gear rules.

Jorsted Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Jump-Off Joe Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. From Kachess Lake (Reservoir) upstream to waterfall approximately one-half mile above Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County)~~((?))~~: Outside Olympic National Park: Closed waters: Those waters within the section posted as the Olympic National Park water supply ~~((the))~~. First Saturday in June through last day in February season. Trout: Minimum length fourteen inches. Selective gear rules. ~~((Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches.))~~ Other game fish: Selective gear rules.

Kalama River (Cowlitz County):

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year-round season except during the period the temporary fish rack is installed. Waters from Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters when the rack is installed. Anti-snagging rule and night closure April 1 through October 31 from the railroad bridge below I-5 to the intake at the lower salmon hatchery. Stationary gear restriction September 1 through October 31 from the railroad bridge below I-5 to the natural gas pipeline at Mahaffey's Campground. All species: When anti-snagging rule in effect only fish hooked inside the mouth may be retained. Fishing from a floating device equipped with an internal combustion motor prohibited upstream of Modrow Bridge. September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. All game fish: Release all fish year-round except up to 2 hatchery steelhead may be retained per day. Salmon: Open year-round. January 1 through July 31, daily limit 6 hatchery Chinook of which no more than 1 may be an adult salmon. August 1 through December 31, daily limit 6 fish of which no more than 2 may be adult Chinook. Release chum, wild Chinook, and wild coho.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year-round season. Fishing from a floating device equipped with a motor prohibited. Selective gear rules. All species: Release all fish.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: The first Saturday in June through March 31 season. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. All species: Release all fish.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Kapowsin Lake (Pierce County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained.

Kelsey Creek (tributary of Lake Washington) (King County): The first Saturday in June through August 31 season. Juveniles only.

Kendall Creek (Whatcom County) (NF Nooksack tributary) above the hatchery grounds: First Saturday in June through October 31 season. Selective gear rules.

Kennedy Creek (Thurston County)~~((?))~~: From mouth to four hundred feet below falls: The first Saturday in June through last day in February season. Selective gear rules. Anti-snagging rule and night closure October 1 through December 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to northbound Highway 101 Bridge. Barbless hooks required. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

From falls upstream: First Saturday in June through October 31 season. Selective gear rules.

Kennedy Creek Pond (Thurston County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Kettle River (Stevens County):

The Saturday before Memorial Day through October 31 season. All species: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length 12 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

Additional season: November 1 through May 31. Whitefish gear rules apply. Selective gear rules are not required from Canadian border upstream to Highway 21 Bridge at Curlew.

Ki Lake (Snohomish County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Kidney Lake (Skamania County): ~~((Last))~~ Fourth Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kindy Creek (Skagit County) (Cascade River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish.

King's Creek (Pierce County) (Puyallup River tributary): First Saturday in June through October 31 season.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Kitsap Lake (Kitsap County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Kiwanis Pond (Kittitas County): Juveniles and holders of reduced fee licenses or designated harvester cards only.

Klaus Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season. Closed waters: The inlet and outlet to first Weyerhaeuser spur.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: April 1 through January 31 season. Anti-snagging rule and night closure April 1 through May 31. Anti-snagging rule August 1 through January 31. Game fish: Closed December 1 through January 31. Release game fish other than hatchery steelhead April 1 through May 31. Trout: Minimum length twelve inches. Steelhead and salmon: Open April 1 through May 31 on Sundays, Mondays, Wednesdays and Saturdays only; daily limit 2 hatchery steelhead or 2 salmon, or 1 of each. Release wild Chinook. Salmon: Open June 1 through January 31. June 1 through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild Chinook. August 1 through January 31, daily limit 6 fish of which no more than 2 may be adult Chinook.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Additional December 1 through March 31 season. Whitefish gear rules apply. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. June 1 through July 31, daily limit 6 salmon. Release adult salmon and release wild Chinook. August 1 through October 31, daily limit 6 fish of which no more than 2 may be adult Chinook. November 1 through November 30, daily limit 6 fish. Release Chinook.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): (~~Last~~) Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Kokanee Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Salmon: Landlocked salmon rules apply.

Lacamas Creek (Clark County): From mouth to footbridge at lower falls: First Saturday in June through August 31 season. From footbridge at lower falls upstream: Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): Trout: Release all trout except up to two hatchery steelhead may be retained per day.

Ladder Creek (Skagit County): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Lake Creek (Okanogan County): Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Closed waters.

Langlois Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year-round season.

Lawrence Lake (Thurston County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Leader Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through September 30 season.

LeBar Creek (Mason County): From the falls at river mile one upstream: First Saturday in June through October 31 season.

Le Clerc Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Ledbetter Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than one over 14 inches in length.

Leland Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Leland Lake (Jefferson County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Lemna Lake (Grant County): April 1 through September 30 season.

Lena Creek (Mason County): First Saturday in June through October 31 season.

Lenice Lake (Grant County): March 1 through November 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish. Additional season the first Saturday in June through November 30: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Leo Lake (Pend Oreille County): ~~((East))~~ Fourth Saturday in April through October 31 season.

Lewis River (Clark County)~~((?))~~: From mouth to forks: Year-round season. Trout: Release all fish except up to 2 hatchery steelhead may be retained per day. Salmon: Open year-round. January 1 through July 31, daily limit six hatchery Chinook of which not more than 1 may be an adult salmon. August 1 through September 30, daily limit 6 hatchery salmon, of which no more than 2 may be adult hatchery Chinook. Release all salmon except hatchery Chinook and hatchery coho. October 1 through December 31, daily limit 6 salmon, of which no more than 2 may be adult Chinook. Release all salmon except Chinook and hatchery coho. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Lewis River, East Fork (Clark/Skamania counties): Closed waters: From the posted markers at the lower end of Big Eddy to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls upstream including all tributaries above Horseshoe Falls.

Mouth to 400 feet below Horseshoe Falls: The first Saturday in June through March 15 season. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Mouth to top boat ramp at Lewisville Park: Additional April 16 through the Friday before the first Saturday in June season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Release all fish except up to 2 hatchery steelhead may be retained per day.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Colvin Creek: Year-round season except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Anti-snagging rule and night closure April 1 through November 30 from Johnson Creek to Colvin Creek. When anti-snagging rule is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to 2 hatchery steelhead may be retained per day. Salmon: Open year-round. January 1 through July 31, daily limit 6 hatchery Chinook of which only 1 may be an adult salmon. August 1 through September 30, daily limit 6 hatchery salmon, of which no more than 2 may be adult hatchery Chinook. Release all salmon except hatchery Chinook and hatchery coho. October 1 through December 31, daily limit 6 salmon, of which no more than 2 adult Chinook may be retained. Release all salmon except Chinook and hatchery coho. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in waters of mainstem Columbia River adjacent to mouth of Lewis River.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: December 16 through September 30 season. Anti-snagging rule and night closure April 1 through September 30. When anti-snagging rule is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to 2 hatchery steelhead may be retained per day. Salmon: Open only January 1 through September 30 and December 16 through December 31. January 1 through July 31, daily limit 6 hatchery Chinook of which only 1 may be an adult salmon. August 1 through September 30, daily limit 6 hatchery salmon, of which no more than 2 may be adult hatchery Chinook. Release all salmon except hatchery Chinook and hatchery coho. December 16 through December 31, daily limit 6 salmon, of which no more than 2 may be adult Chinook. Release all salmon except Chinook and hatchery coho. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in waters of mainstem Columbia River adjacent to mouth of Lewis River.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal: From the fishing pier to the access road at Swift Dam: ~~((East))~~ Fourth Saturday in April through October 31 season. Fishing from a floating device prohibited. Trout: No minimum size, daily limit 5.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Liberty Lake (Spokane County): March 1 through October 31 season.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: The first Saturday in June through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

From falls upstream: First Saturday in June through October 31 season.

Lilly Lake (Chelan County): (~~Last~~) Fourth Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Lime Creek (Snohomish County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Limerick Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Lincoln Creek, including South Fork (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Lincoln Pond (Clallam County): Juveniles only.

Lions Park Pond (Walla Walla County): Juveniles only. Trout: No more than 2 trout over 13 inches in length may be retained.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): The first Saturday in June through August 31 season. Juveniles only.

Little Hoko River (Clallam County): First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Little Klickitat River (Klickitat County)(-): Within Golden-dale city limits: (~~Last~~) Fourth Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Little Mission Creek (Mason County) from falls upstream: First Saturday in June through October 31 season. Selective gear rules and release all fish.

Little Naches River (Yakima County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Little Nisqually River (Lewis County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Little North River Creek and all forks (Grays Harbor County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

Little Pend Oreille River (Stevens County): From the Little Pend Oreille wildlife refuge boundary about 1 mile downstream from the refuge headquarters office to Crystal Falls: Saturday before Memorial Day through October 31 season. Selective gear rules, and unlawful to fish from a floating

device equipped with an internal combustion motor. All species: Release all fish except up to five Eastern brook trout may be retained.

Little Quilcene River (Jefferson County)(-): From mouth to the Little Quilcene River Bridge on Penny Creek Road: First Saturday in June through October 31 season. All species: Selective gear rules, unlawful to fish from a floating device equipped with an internal combustion motor, and release all fish. Closed waters: Mouth to Highway 101 Bridge September 1 through October 31.

From Little Quilcene River Bridge on Penny Creek Road upstream: First Saturday in June through October 31 season.

Little Scandia Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year-round season.

From SR 291 Bridge upstream to the West Branch: (~~Last~~) Fourth Saturday in April through October 31 season. Additional December 1 through March 31 season. Whitefish gear rules apply.

Upstream from bridge at Frideger Road: Closed waters: From the inlet to Chain Lake upstream one-quarter mile to the railroad crossing culvert. Trout: Release kokanee taken upstream from bridge.

Little Twin Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Little Twin Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31.

Little Wenatchee River (Chelan County): From Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery): Night closure March 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(-): Open only to bank fishing from April 16 through June 30. Anti-snagging rule August 1 through December 31. Year-round season; except closed Wednesdays beginning the second Wednesday in April through June 30, closed from 6 p.m. Tuesdays through 6 p.m. Wednesdays during October, closed for game fish other than trout during April, release all trout except hatchery steelhead, and trout other than steelhead closed March 16 through July 31. Trout: August 1 through March 15, daily limit of two hatchery steelhead. Salmon and steelhead: March 16 through July 31, daily limit of two hatchery steelhead or two hatchery Chinook, or one of each. Salmon: Open August 1 through December 31.

Daily limit six fish of which no more than two may be adult salmon. Release wild coho and wild Chinook.

Lone Lake (Island County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one, minimum length 18 inches.

Long Lake (Ferry County): (~~Last~~) Fourth Saturday in April through October 31 season. Fly fishing only. Unlawful to use flies containing lead. Unlawful to fish from floating devices equipped with motors.

Long Beach Peninsula waterways and lakes (Pacific County): All game fish: Fourth Saturday in April through October 31 season.

Long Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through September 30 season.

Long Lake (Thurston County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): (~~Last~~) Fourth Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout except kokanee: Daily limit five, except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Kittitas County): Trout: Not more than 1 fish over 14 inches in length.

Lost Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Lost River (Okanogan County):

From mouth to mouth of Monument Creek: Closed waters.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

Lower Salmon Creek and all forks (Grays Harbor County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

Lucas Creek (Lewis County) (tributary to the Newaukum River North Fork): From mouth upstream: The first Saturday in June through October 31 season. Trout: Catch and release only. Selective gear rules. Other game fish: Selective gear rules.

Lucky Duck Pond (Stevens County): Juveniles only.

Ludlow Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Ludlow Lake (Jefferson County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Lyle Lake (Adams County): April 1 through September 30 season.

Lyle Creek (King County) (White River tributary): First Saturday in June through October 31 season.

Lyre River (Clallam County):

From mouth to falls near river mile 3: The first Saturday in June through last day in February season. Trout: Minimum length fourteen inches.

From falls to source: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Mad River (Chelan County)(~~(?)~~): From mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): (~~Last~~) Fourth Saturday in April through November 30 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee. Salmon: Landlocked salmon rules apply.

Maple Creek (Whatcom County) (NF Nooksack tributary): First Saturday in June through (~~October~~) January 31 season. Selective gear rules.

Marble Creek (Skagit County) (Cascade River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish.

Malaney Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Margaret Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season.

Marsh Creek (Snohomish County) (Sultan River tributary) and its tributaries, including beaver ponds, above the falls at its mouth: First Saturday in June through October 31 season.

Marshal Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season.

Matheny Creek (Jefferson County) (Queets River tributary): Outside Olympic National Park: First Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Mattoon Lake (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

May Creek (tributary of Lake Washington) (King County): The first Saturday in June through August 31 season. Juveniles only.

Mayfield Lake (Reservoir) (Lewis County): Mayfield Dam to 400 feet below Mossyrock Dam: Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Release rainbow trout except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

McAllister Creek (Thurston County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

McDowell Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

McLane Creek (Thurston County): First Saturday in June through October 31 season. Selective gear rules. Night closure August 1 through October 31. Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): (~~Last~~) Fourth Saturday in April through October 31 season.

McManaman Lake (Adams County): April 1 through September 30 season.

McMurray Lake (Skagit County): (~~Last~~) Fourth Saturday in April through October 31. Salmon: Landlocked salmon rules apply.

Medical Lake (Spokane County): March 1 through October 31 season. Selective gear rules. Fishing from a floating

device equipped with a motor prohibited. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): (~~Last~~) Fourth Saturday in April through September 30 season.

Melbourne Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Mercer Creek (Kittitas County)(~~;~~): That portion within Ellensburg city limits: Juveniles only.

Mercer Slough (tributary of Lake Washington) (King County): The first Saturday in June through August 31 season. Juveniles only.

Merrill Lake (Cowlitz County): All species: Fly fishing only and release all fish. Unlawful to fish from a floating device equipped with an internal combustion engine.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through November 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Merwin Lake (Reservoir) (Clark/Cowlitz County): Salmon: Landlocked salmon rules apply.

Methow River (Okanogan County): Mouth to County Road 1535 (Burma Road) Bridge: Closed waters. County Road 1535 (Burma Road) Bridge to the Hwy 153 Bridge at McFarland Creek: The first Saturday in June through September 15 season: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish. Highway 153 Bridge at McFarland Creek to Foghorn Dam: The first Saturday in June through September 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish. Foghorn Dam to Weeman Bridge: The first Saturday in June through August 15 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters the first Saturday in June through October 31. Additional season Gold Creek to falls above Brush Creek: December 1 through March 31. Whitefish gear rules apply.

Methow River tributaries not otherwise provided for: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): The first Saturday in June through October 31 season.

Milk Creek (Snohomish County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): The first Saturday in June through August 31 and November 1 through March 15 sea-

sons. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Anti-snagging rule and night closure. All species: Release all fish except that up to two hatchery steelhead may be retained per day.

Mill Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Mill Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 31 season. Selective gear rules.

Mill Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Mill Creek (Walla Walla County):

From mouth to Bennington Dam: Closed waters.

From Bennington Dam upstream: All tributaries: Closed waters. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all steelhead.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Juveniles only except open to all ages during Free Fishing Weekend (as defined in WAC 220-56-160).

Mill Pond (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Mima Creek (Thurston County) ~~((and all tributaries west of I-5))~~ (Black River tributary): From mouth upstream: First Saturday in June through October 31 season. Selective gear rules, night closure and anti-snagging rule. ((Trout: Minimum length 14 inches.))

Mineral Creek (tributary to upper Kachess River) (Kittitas County) ~~((;))~~: From mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches.

Mineral Lake (Lewis County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Salmon: Open only November 1 through December 31 from mouth to 50 feet downstream of the hatchery rack. Night closure. Daily limit 4 chum.

Mirror Lake (Grant County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Mission Lake (Kitsap County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Mitchell Creek (Lewis County) (tributary to the Newaukum River North Fork): From mouth upstream: The first Saturday in June through October 31 season. Trout: Catch and release only. Selective gear rules. Other game fish: Selective gear rules.

Moclips River (Grays Harbor County), from mouth to the Quinalt Indian Reservation boundary: The first Saturday in June through the last day in February season. Trout: Minimum length fourteen inches. Lawful to retain steelhead having a dorsal fin height of less than 2 1/2 inches or with an adipose or ventral fin clip.

Molson Lake (Okanogan County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Monte Cristo Lake (Snohomish County): The first Saturday in June through August 31 season. All species: Selective gear rules and catch and release except up to two hatchery steelhead may be retained. Unlawful to fish from a floating device equipped with an internal combustion motor.

Mooses Pond (Pacific County): The first Saturday in June through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): April 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: December 1 through ~~((last day in February))~~ January 31 season. Trout: Minimum length fourteen inches.

From Port Angeles Dam upstream: First Saturday in June through October 31 season.

Moses Lake (Grant County): Crappie: Daily limit ten, only crappie more than nine inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained. Walleye: Daily limit 8 walleye. Minimum length twelve inches. No more than one walleye over 22 inches in length may be retained. Yellow perch: Daily limit 25 yellow perch.

Mosquito Creek (Jefferson County) ~~((;))~~: Outside Olympic National Park upstream to the Goodman 3000 Mainline Bridge: The first Saturday in June through last day in February season. ((Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.)) Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Mox Chehalis Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.



Mountain Lake (San Juan County): Trout: Daily limit may not contain more than one trout over 18 inches in length.

Mud Lake (Mason County): ~~((East))~~ Fourth Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Mudget Lake (Stevens County): ~~((East))~~ Fourth Saturday in April through October 31 season.

Munn Lake (Thurston County): All species: Selective gear rules, unlawful to fish from a floating device equipped with an internal combustion motor, and release all fish.

Muskegon Lake (Pend Oreille County): ~~((East))~~ Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Mystic Lake (Pend Oreille County): ~~((East))~~ Fourth Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches, maximum length twenty inches. Release trout the first Saturday in June through October 31 from confluence with Tieton River to mouth of Rattle Snake Creek. Additional December 1 through March 31 season. Whitefish gear rules apply.

Nahwatzel Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Naneum Creek (Kittitas County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

Naselle River (Pacific/Wahkiakum counties)~~((;))~~: All species: Night closure and anti-snagging rule August 1 through November 15, stationary gear restriction on the South Fork upstream to the Highway 4 Bridge August 1 through December 31.

From Highway 101 Bridge ~~((upstream including all forks;))~~ to the Highway 4 Bridge: All game fish: First Saturday in June through last day in February season. Release all fish except up to 2 hatchery steelhead per day may be retained.

From the Highway 4 Bridge to the Crown Mainline (Salme) Bridge: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls, and from hatchery attraction channel downstream four

hundred feet. Waters from the temporary hatchery weir downstream to Highway 4 are closed when the weir is installed. All species: Night closure, anti-snagging rule, and stationary gear restriction August 1 through November 15. All game fish: First Saturday in June through last day in February season. Release all fish except up to 2 hatchery steelhead per day may be retained.

From ~~((Highway 101 Bridge))~~ the Crown Mainline (Salme) Bridge to the North Fork: The first Saturday in June through ~~((April 15))~~ last day in February season, except sturgeon. ~~((From Highway 101 Bridge to the Highway 4 Bridge;))~~ Night closure and anti-snagging rule August 1 through November ~~((15, stationary gear restriction above mouth of South Fork August 1 through December 31, and selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor above mouth of South Fork March 1 through April 15. From Highway 4 Bridge to Crown Main Line Bridge: Night closure, single point barbless hooks required, and stationary gear restriction August 16 through November 15; and selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor March 1 through April 15. From Crown Main Line Bridge to North Fork: Night closure and anti-snagging rule August 16 through November 30, and selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor March 1 through April 15))~~ 30. All game fish: Release all fish except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and September 1 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish, of which no more than 3 may be adult salmon and of these 3 adult fish, no more than 2 may be wild adult coho. Release chum and wild Chinook. Sturgeon: Open year-round from mouth to Highway 4 Bridge.

From mouth of North Fork ~~((to source))~~ upstream: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All ~~((species))~~ game fish: Release all fish except up to 2 hatchery steelhead per day may be retained.

Naselle River, South Fork~~((;))~~ (Pacific County): From mouth to Bean Creek: All game fish: The first Saturday in June through last day in February season, except sturgeon. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Anti-snagging rule and night closure August 16 through November 30. ~~((Game fish;))~~ Release game fish except up to 2 hatchery steelhead per day may be retained. Sturgeon: Open year-round.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to the fish barrier dam at Fishtrap Lake.

Negro Creek (Whitman County): ~~((Last))~~ Fourth Saturday in April through July 15 season.

Neil Creek (Grays Harbor County) (Wynoochee River tributary): From mouth to USFS 22 Road: First Saturday in June through October 31 season. All species: Selective gear rules.

Nemah River, Middle Fork (Pacific County):

From mouth upstream to the Department of Natural Resources bridge on the Middle Nemah A-Line Road: All game fish: The first Saturday in June through ~~((March 31))~~ the last day in February season. Release all game fish except up to 2 hatchery steelhead may be retained. Night closure and single-point hooks required August 16 through November 30. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor. Salmon: Open only August 1 through January 31. Daily limit 6, of which only 2 may be adult salmon. Release chum, wild coho, and wild Chinook.

From the Department of Natural Resources bridge on the Middle Nemah A-Line Road upstream: Closed waters: From the Nemah Hatchery downstream August 1 through November 15. All game fish: The first Saturday in June through ~~((March 31))~~ last day in February season. Release all game fish except up to 2 hatchery steelhead may be retained. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor. Night closure and anti-snagging rule August 16 through November 30.

Nemah River, North Fork (Pacific County):

From Highway 101 Bridge upstream to bridge on Nemah Valley Road: The first Saturday in June through March 31 season, except closed August 1 through September 30. Release all game fish except up to 2 hatchery steelhead may be retained. Night closure, single-point barbless hooks required, and stationary gear restriction from September 1 through November 30. Salmon: Open only September 1 through January 31. Daily limit 6, of which only 3 may be adult salmon. Release chum, wild coho, and wild Chinook.

From Nemah Valley Road upstream to Nemah Hatchery: Closed waters ~~((From the Nemah Hatchery downstream))~~ August 1 through November 15.

From bridge on Nemah Valley Road upstream to Cruiser Creek: The first Saturday in June through ~~((March 31))~~ the last day in February season. Release all game fish except up to 2 hatchery steelhead may be retained. Night closure and anti-snagging rule August 16 through November 30.

Nemah River, South Fork (Pacific County):

From mouth ~~((upstream))~~ (Lynn Point, 117 degrees true to opposite shore) to confluence with Middle Fork Nemah River: The first Saturday in June through ~~((March 31))~~ the last day in February season. Release all game fish except up to 2 hatchery steelhead may be retained. Night closure and single-point hooks required September 1 through November 30. Salmon: Open only September 1 through January 31. Daily limit 6, of which only 2 may be adult salmon. Release chum, wild coho, and wild Chinook.

From confluence with Middle Fork Nemah River upstream to second Highway 101 Bridge crossing: The first Saturday in June through ~~((March 31))~~ the last day in Febru-

ary season. Release all game fish except up to 2 hatchery steelhead may be retained. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor.

Newaukum River, ((main river and South Fork upstream to Highway 508 Bridge near Kearny Creek (Lewis County):)) including South Fork (Lewis County): All species: Night closure and single point barbless hooks required from August 16 through November 30. Salmon: Open only October 16 through last day in February from mouth to Leonard Road. October 16 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and Chinook. December 1 through last day in February, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.

From mouth to Leonard Road near Onalaska: The first Saturday in June through March 31 season. ~~((Night closure and single point barbless hooks required August 16 through November 30 from mouth to Leonard Road.))~~ Trout: Minimum length fourteen inches ~~((from mouth to Highway 508 Bridge near Kearny Creek. Salmon: Open only October 16 through last day in February from mouth to Leonard Road. October 16 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, and Chinook. December 1 through last day in February, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.))~~

From Leonard Road near Onalaska to Highway 508 Bridge near Kearny Creek: All species: Night closure and single point barbless hooks required from August 16 through November 30. The first Saturday in June through March 31 season. Trout: Minimum length fourteen inches.

From Highway 508 Bridge upstream: All species: Night closure and single point barbless hooks required from August 16 through November 30. The first Saturday in June through October 31 season.

Trout: Catch and release only. Selective gear rules. Other game fish: Selective gear rules.

Newaukum River, Middle Fork ((mouth to Tauscher)) (Lewis County): From mouth to Tauscher Road Bridge ((Lewis County)): ((The)) First Saturday in June to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County): From mouth to four hundred feet below Chehalis city water intake: The first Saturday in June through March 31 season. Trout: Minimum length fourteen inches.

~~((From 400 feet below Chehalis city water intake upstream: Closed waters.))~~

Newhalem Creek (Skagit County): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Newhalem Ponds (Whatcom County): Closed waters.

New Pond Creek (Pierce County) (South Prairie Creek tributary): First Saturday in June through October 31 season.

Newman Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Newskah Creek (Grays Harbor County): From mouth upstream: First Saturday in June through October 31 season. All species: Selective gear rules.

Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge: Night closure and single point barbless hooks required August 16 through November 30. ~~((AH))~~ First Saturday in June through October 31 game fish~~((= Release all fish))~~ season. Salmon: Open only September 1 through November 30 from Highway 101 Bridge to South Bend/Palix Road Bridge. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, wild coho, and wild Chinook.

Nile Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Nisqually River (Pierce County)~~((=))~~: From mouth to Military Tank Crossing Bridge: July 1 through November 30 season. Anti-snagging rule, night closure, and barbless hooks required August 1 through November 30. Trout: Minimum length fourteen inches. Additional season December 1 through January 31. All species: Release all species except up to 2 hatchery steelhead may be retained per day. Salmon: Open July 1 through January 31. July 1 through October 31, daily limit 6 fish of which no more than 3 may be adult salmon, and of the adult salmon only 2 may be any combination of chum and coho. Release wild Chinook. November 1 through January 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release wild Chinook.

From Military Tank Crossing Bridge to four hundred feet below LaGrande Powerhouse: July 1 through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to 2 hatchery steelhead may be retained per day.

From Alder Reservoir upstream including all tributaries: The first Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length 14 inches.

Nookachamps Creek (Skagit County): Including all tributaries and their tributaries: First Saturday in June through October 31 season. Selective gear rules.

Nooksack River (Whatcom County)~~((=))~~: From mouth to forks: The first Saturday in June through ~~((February 15))~~ January 31 season except closed the first Saturday in June through September 30 from yellow marker at the FFA High School barn at Deming to confluence of the North and South Forks. Anti-snagging rule and night closure the first Saturday in June through November 30. Trout: Minimum length fourteen inches. Salmon: Open July 16 through August 31 from Lummi Indian Reservation boundary to Highway 544 Bridge at Everson. Daily limit 4 pink salmon only. Bait prohibited. Only single point hook may be used, hook must measure less than 1/2" from point to shank. Open September 1 through December 31 from Lummi Indian Reservation boundary to

yellow marker at the FFA High School barn in Deming. Daily limit 2 salmon, plus 2 additional coho, except release wild Chinook September 1 through September 30. Open only October 1 through December 31 from the FFA barn to the confluence of the North and South Forks. Daily limit 2 salmon, plus 2 additional coho.

Nooksack River, North Fork (Whatcom County): From mouth to Nooksack Falls: First Saturday in June through ~~((February 15))~~ January 31 season. November 1 through ~~((February 15))~~ January 31 - Unlawful to fish from a floating device equipped with a motor. First Saturday in June through November 30 night closure and anti-snagging rule from mouth to Maple Creek. Salmon: Open only October 1 through November 30 from mouth to Maple Creek. Minimum size twelve inches; daily limit 2, plus 2 additional coho. From Maple Creek to Nooksack Falls: First Saturday in June through January 31 season. Selective gear rules.

Above Nooksack Falls including all tributaries and their tributaries: First Saturday in June through October 31 season.

Nooksack River, Middle Fork (Whatcom County) mouth to city of Bellingham diversion dam: First Saturday in June through ~~((February 15))~~ January 31 season. Selective gear rules. Trout minimum size 14 inches. November 1 through ~~((February 15))~~ January 31 - Motors prohibited.

Above diversion dam, including all tributaries and their tributaries: First Saturday in June through October 31 season.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: The first Saturday in June through ~~((February 15))~~ January 31 season. Selective gear rules. Release all game fish except up to 2 hatchery steelhead may be retained. Unlawful to fish from a floating device equipped with an internal combustion motor. Night closure the first Saturday in June through November 30. Salmon: Open only October 1 through December 31. Daily limit 2 salmon, plus 2 additional coho. Release chum. In years ending in odd numbers, release pink salmon.

No Name Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

North Creek (Okanogan County): From mouth to falls at river mile 0.8: Closed waters.

North Creek (tributary of Sammamish River) (Snohomish/King counties): The first Saturday in June through August 31 season. Juveniles only.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Fork (Pacific County) (tributary to Naselle River): From mouth upstream: All game fish: The first Saturday in June through last day in February season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Anti-snagging rule and night closure August 16 through November 30. Release game fish except up to 2 hatchery steelhead per day may be retained.

North Lake (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties)~~((, from Highway 105 Bridge upstream to Fall River))~~: September 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and wild Chinook. December 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and wild Chinook. Open October 1 through December 31 from Salmon Creek to Fall River. October 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and wild Chinook. December 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and wild Chinook.

From Highway 101 Bridge to Salmon Creek (located approximately two miles upstream from Highway 101): All species: Night closure and single point barbless hooks required. The first Saturday in June through last day in February season~~((, except sturgeon. Night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 upstream to Salmon Creek (located approximately 2 miles upstream from Highway 101). Anti-snagging rule and night closure from Salmon Creek to Fall River August 16 through November 30))~~. All game fish: Release all fish except that up to 2 hatchery steelhead per day may be retained. ~~((Salmon: Open September 1 through December 31 from Highway 105 Bridge to Salmon Creek. September 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and wild Chinook. December 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and wild Chinook. Open October 1 through December 31 from Salmon Creek to Fall River. October 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum and wild Chinook. December 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and wild Chinook. Sturgeon: Open year round from Highway 105 Bridge to Salmon Creek.~~

~~Upstream from Fall River: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to 2 hatchery steelhead per day may be retained.)~~

From Salmon Creek (located approximately two miles upstream from Highway 101) to Fall River: All species: Night closure and anti-snagging rule from August 16 through November 30. The first Saturday in June through last day in February season. All game fish: Release all fish except that up to 2 hatchery steelhead per day may be retained.

From Fall River to Raimie Creek: The first Saturday in June through October 31 season. Selective gear rules.

Unlawful to fish from a floating device equipped with an internal combustion motor. All game fish: Release all fish except that up to 2 hatchery steelhead per day may be retained.

Northern State Hospital Pond (Skagit County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Juveniles only.

~~((Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.))~~

Nunnally Lake (Grant County): March 1 through November 30 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches.

Ohop Creek (Pierce County): July 1 through October 31 season. All species: Selective gear rules, unlawful to fish from a floating device equipped with an internal combustion motor, and release all fish except up to two hatchery steelhead per day may be retained.

Ohop Lake (Pierce County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Okanogan River (Okanogan County):

From the mouth to the Highway 97 Bridge immediately upstream of mouth: Year-round season. Anti-snagging rule and night closure July 1 through October 15. Trout: Release all trout. Salmon: Open July 1 through October 15. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of these three only one may be a wild adult Chinook. Release coho and sockeye.

From the Highway 97 Bridge immediately upstream of mouth to the highway bridge at Malott: Year-round season. Anti-snagging rule and night closure July 1 through September 15. Trout: Release all trout. Salmon: Open July 1 through September 15. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of these three salmon only one may be a wild adult Chinook. Release coho and sockeye. Upstream from the highway bridge at Malott: The first Saturday in June through August 31 season. Anti-snagging rule and night closure July 1 through September 15. Trout: Release all trout. Salmon: Open July 1 through September 15. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of these three salmon only one may be a wild adult Chinook. Release coho and sockeye.

Closed waters: From Zosel Dam downstream to first Highway 97 Bridge.

Olalla Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.

Old Fishing Hole Pond (Kent) (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Juveniles only.

Old Mill Stream (Chelan County): Closed waters.

Olequa Creek (Lewis County/Cowlitz County): Closed waters from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek. Trout: Release all trout except up to two hatchery steelhead may be retained per day.

Olney Creek (Snohomish County) (Wallace River tributary): Upstream of Olney Falls, including tributaries and beaver ponds: First Saturday in June through October 31 season.

Olson Creek (Skagit County): First Saturday in June through October 31 season. Selective gear rules.

Osborne Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Outlet Creek (Mason County) (Satsop River tributary): From mouth upstream: First Saturday in June through October 31 season. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Owens Pond (Pacific County): The first Saturday in June through October 31 season.

Owl Creek (Snohomish County) (Whitechuck River tributary): First Saturday in June through October 31 season. Selective gear rules.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. ~~((Last))~~ Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County):

From Highway 101 Bridge to the mouth of the Middle Fork: The first Saturday in June through ~~((March 31))~~ the last day in February season, except sturgeon. Single point barbless hooks and night closure August 16 through November 30 ~~((upstream to the mouth of the Middle Fork))~~. All game fish: Release all fish except up to 2 hatchery steelhead per day may be retained. ~~((South Fork and all waters upstream of the mouth of Middle Fork including Canon River:))~~

From the confluence to the Middle Fork upstream and all forks, including South Fork and Cannon River: All game fish: First Saturday in June through October 15 and December 15 through last day in February seasons. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Anti-snagging rule and night closure August 16 through ~~((November 30. All game fish:~~

~~Release all fish except up to 2 hatchery steelhead per day may be retained))~~ October 15. Salmon: Open only September 1 through November 30 from the Highway 101 Bridge to the mouth of the Middle Fork. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, wild coho, and wild Chinook. Sturgeon: Open year-round from the Highway 101 Bridge to the mouth of the Middle Fork.

Palouse River and tributaries, except Rock Creek (Whitman County): Year-round season. Mainstem from mouth to base of Palouse Falls. Trout: Daily limit 6 fish, minimum length 10 inches, no more than 3 trout over 20 inches may be retained, except release all trout April 1 through June 15 and release steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Walleye: Daily limit 10 fish, no minimum size. No more than 5 walleye over 18 inches in length may be retained, and no more than 1 walleye over 24 inches in length may be retained. Channel catfish: No daily limit.

Palouse River mainstem above Palouse Falls and tributaries except Rock Creek: Year-round season.

Pampa Pond (Whitman County): March 1 through September 30 season. Fishing from any floating device prohibited. Trout: No more than two over 13 inches in length may be retained.

Panhandle Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Para-Juvenile Lake (Adams/Grant counties): April 1 through September 30 season. Juveniles only.

Park Lake (Grant County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

Within the city limits of Pomeroy: Juveniles only.

From city limits of Pomeroy upstream: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Pattison Lake (Thurston County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Peabody Creek (Clallam County): First Saturday in June through October 31 season. Juveniles only.

Penny Creek (Jefferson County): First Saturday in June through October 31 season.

~~((Perry Creek (Thurston County) from mouth to falls: First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.))~~

Pearrygin Lake (Okanogan County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year-round season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters. Two-pole endorsement fishing allowed.

Perch Lake (Grant County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Percival Creek (Thurston County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Perry Creek (Thurston County): From mouth to falls: First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.

Peshastin Creek (Chelan County): Mouth to Ruby Creek: Closed waters.

Petit Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Pheasant Lake (Jefferson County): ~~((Last))~~ Fourth Saturday in April ~~((to))~~ through October 31 season.

Phelps Creek (Chelan County): From mouth to falls at river mile 1: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Phillips Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Phillips Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Pierre Lake (Stevens County): Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Pilchuck Creek (Clallam County) (Sooes River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: The first Saturday in June through ~~((February 15))~~ January 31 season. Trout: Minimum length 14 inches. Selective gear rules and unlawful to fish from a floating device

equipped with an internal combustion motor the first Saturday in June through November 30.

From Highway 9 Bridge to Pilchuck Falls: First Saturday in June through October 31 season. Selective gear rules. Trout minimum size 14 inches.

From Pilchuck Falls upstream, including all tributaries and their tributaries and all tributaries to Lake Cavanaugh: First Saturday in June through October 31 season.

Pilchuck River (Snohomish County): From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through ~~((February 15))~~ January 31 season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches.

Pillar Lake (Grant County): April 1 through September 30 season.

Pine Creek (Mason County): First Saturday in June through October 31 season.

Pine Lake (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Pine Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Ping Pond (Grant County): Third Saturday in April through Labor Day season. Juveniles and holders of reduced fee licenses or designated harvester cards only. Game fish: Daily limit of five fish in the aggregate. No minimum or maximum size for any species.

Pioneer Creek (Grays Harbor County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

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

Pit Lake (Douglas County): Juveniles only.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): ~~((Last))~~ Fourth Saturday in April through last day in February season.

Poacher Lake (Grant County): April 1 through September 30 season.

Porter Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Potholes Reservoir (Grant County): Crappie: Minimum length nine inches. Crappie and bluegill: Combined daily limit twenty-five fish. Perch: Daily limit twenty-five fish. Walleye: Minimum size 12 inches in length. Daily limit 8 walleye, not more than 1 of which may be greater than 22 inches in length.

Potter's Pond (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Powerline Lake (Franklin County): Trout: Daily limit 2.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Prices Lake (Mason County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Promised Land Pond (Grays Harbor County): The first Saturday in June through October 31 season.

Pugh Creek (Snohomish County) (Whitechuck River tributary): First Saturday in June through October 31 season. Selective gear rules.

Puyallup River (Pierce County):

From mouth to city of Puyallup outfall structure near junction of Freeman Road and North Levee Road: Game fish season is open only when salmon fishing is open. Single-point barbless hooks, anti-snagging rule and night closure August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open August 16 through December 31 from mouth to Carbon River, except closed August 28 and 29 and September 4, 5, 6, 11, 12, and 13 from mouth to city of Puyallup outfall structure near junction of Freeman Road and North Levee Road. In years ending in even numbers, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild adult Chinook. In years ending in odd numbers, daily limit 6 fish, of which no more than 4 may be adult salmon, and of the adult salmon, no more than 2 may be any combination of Chinook, coho, and chum. Release wild adult Chinook.

From city of Puyallup outfall structure near junction of Freeman Road and North Levee Road to the Electron power plant outlet: Game fish season is open only when salmon fishing is open. Single-point barbless hooks, anti-snagging rule and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open August 1 through December 31. In years ending in even numbers, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild adult Chinook. In years ending in odd numbers, daily limit 6 fish, of which no more than 4 may be adult salmon, and of the adult salmon, no more than 2 may be any combination of Chinook, coho, and chum. Release wild adult Chinook.

From Carbon River upstream: September 1 through ~~((last day of February))~~ January 15 season. Selective gear rules and release all fish except up to 2 hatchery steelhead may be retained.

Pyramid Creek (King County) upstream of Forest Service Road 7000: First Saturday in June through October 31 season.

Pysht River (Clallam County): The first Saturday in June through ~~((October))~~ January 31 season. Selective gear rules and release all fish. ~~((Additional November 1 through last day in February season.))~~ Trout: Minimum length fourteen inches.

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Quigg Lake (Grays Harbor County): The first Saturday in June through April 15 season. Trout: Daily limit 2. Minimum length fourteen inches. Salmon: Open only October 1 through January 31. Daily limit 6 hatchery coho salmon of which no more than 4 may be adult hatchery coho.

Quilcene River (Jefferson County):

From mouth to Rodgers Street: First Saturday in June through August 15 season. Selective gear rules and release all fish. Unlawful to fish from a floating device equipped with an internal combustion motor.

From Rodgers Street to Highway 101 Bridge: First Saturday in June through October 31 season. Release all game fish. First Saturday in June through August 15. Selective gear rules. Salmon: Open only August 16 through October 31 from Rodgers Street to the Highway 101 Bridge. Night closure and only one single point barbless hook may be used. Daily limit 4 coho salmon. Only coho salmon hooked inside the mouth may be retained.

From electric weir at Quilcene National Fish Hatchery to upper boundary of Falls View Campground: First Saturday in June through October 31 season. Selective gear rules and release all fish. Unlawful to fish from a floating device equipped with an internal combustion motor.

From upper boundary of Falls View Campground upstream: First Saturday in June through October 31 season.

Quillayute River (Clallam County) outside of Olympic National Park: ~~((Open year-round outside of Olympic National Park only.))~~ All game fish: May 1 through the Friday before the first Saturday in June season. Catch and release ~~((all game fish))~~ except up to two hatchery steelhead ~~((per day))~~ may be retained. Trout: First Saturday in June through April 30 season. Minimum length fourteen inches. November 1 through last day in February, daily limit ~~((three))~~ may include 1 additional hatchery steelhead. February 16 through April 30, ~~((one))~~ wild steelhead ~~((per day may be retained))~~ retention allowed. Salmon: ~~((Open only))~~ February 1 through November 30. February 1 through August 31, daily limit 6 fish of which no more than 2 may be adult ~~((salmon))~~. Release wild adult Chinook and wild adult coho. September 1 through November 30, daily limit 6 fish of which no more than 4 may be adult ~~((salmon))~~, and of the 4 adults ~~((salmon))~~, no more than 2 may be any combination of Chinook, wild coho, pink, sockeye, and chum salmon.

Quinault River ~~((Upper))~~ (Jefferson County) ~~((;))~~: From mouth at upper end of Quinault Lake upstream to the National Park boundary: ~~((The))~~ First Saturday in June through April 15 season. Trout: Minimum length fourteen inches, daily limit 2 fish. February 16 through April 15, one wild steelhead per day may be retained. Salmon: Open only July 1 through October 31. July 1 through September 30, daily limit 6 jack salmon only. Single-point barbless hooks

required. October 1 through October 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release sockeye, pink, and chum.

Quincy Lake (Grant County): March 1 through July 31 season.

Racehorse Creek (Whatcom County) (NF Nooksack tributary): First Saturday in June through October 31 season. Selective gear rules.

Radar Ponds (Pacific County): Salmon: Landlocked salmon rules apply.

Raging River (King County)(~~(?)~~): From its mouth to the Highway 18 Bridge: The first Saturday in June through (~~February 15~~) January 31 season. Trout: Minimum length fourteen inches.

From Highway 18 Bridge upstream: First Saturday in June through October 31 season.

Raimie Creek and all forks (Pacific County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Rapjohn Lake (Pierce County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Rattlesnake Creek (Yakima County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Rattlesnake Lake (King County): Selective gear rules and catch and release. Unlawful to fish from a floating device equipped with an internal combustion motor.

Ravensdale Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit two, minimum length twelve inches.

Red Creek (King County) (White River tributary): First Saturday in June through October 31 season.

Red Rock Creek (Grant County): April 1 through September 30 season.

Reflection Pond (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season.

Rendsland Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Renner Lake (Ferry County): (~~Last~~) Fourth Saturday in April through October 31 season.

Riffe Lake (Reservoir) (Lewis County): Mossyrock Dam to 400 feet below Cowlitz Falls Dam. Closed waters: Lewis County PUD safety signs approximately 800 feet below Cowlitz Falls Dam to Dam. Lawful to fish up to the base of Swofford Pond Dam. Salmon: Landlocked salmon rules apply.

Rigley Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit two, minimum length twelve inches.

Riley Lake (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Ripley Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Robbins Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Rock Creek (Adams/Whitman counties): Mouth to Endicott Road year-round season.

Endicott Road to bridge on George Knott Road at Revere: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Upstream from bridge on George Knott Road: Year-round season.

Rock Creek (Chelan County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Rock Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Rock Creek (Klickitat County): Mouth to the Army Corps of Engineers Park: Year-round season. Daily limits, size restrictions and gear restrictions are the same as those in the adjacent portion of the Columbia River.

Rock Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.



Rock Creek (Skamania County): Mouth to falls. Trout: Release all trout except up to two hatchery steelhead may be retained per day. Above falls, additional November 1 through March 15 season.

Rocky Brook Creek (Jefferson County)(Dosewallips River tributary): From falls 1000 feet upstream of mouth upstream: First Saturday in June through October 31 season.

Rocky Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Rocky Creek (Skagit County): First Saturday in June through October 31 season. Selective gear rules.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season. June 1 through October 31 selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Roesiger Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): All species: Closed waters: (1) March 1 through the Friday immediately preceding Memorial Day weekend from the Little Dalles power line crossing upstream approximately one mile to marked rock point, and from Northport power line crossing upstream to most upstream point of Steamboat Rock; ~~((2) January 1 through May 31 in San Poil arm upstream from outlet of French Johns Lake;))~~ and ~~((3))~~ (2) April 1 through Friday before Memorial Day in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit six, no more than two with intact adipose fins. Walleye: No minimum size. Daily limit ~~((8))~~ 16 fish not more than one of which may be longer than 22 inches. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries. Carp: Unlawful to fish for carp with bow and arrow.

Rose Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County)~~((;))~~: Except Big Beaver Creek and Ruby Creek: From one mile above their mouths to headwaters: July 1 through October 31 season.

Round Lake (Okanogan County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): ~~((Last))~~ Fourth Saturday in April through last day in February season.

Royal Lake (Adams County): Closed waters.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Rue Creek, including West Fork (Pacific County) (South Fork Willapa tributary): From mouth upstream: All game fish: First Saturday in June through October 31. Selective gear rules.

Rufus Woods Lake (Douglas County): Chumming allowed. Trout: Daily limit two. Only uninjured trout caught using artificial lures or flies with single barbless hooks may be released. Sturgeon: Unlawful to fish for or retain sturgeon from Rufus Woods Lake and tributaries.

Sacheen Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): April 1 through September 30 season.

Saint Clair Lake (Thurston County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Salmon Creek (Clark County)~~((;))~~:

From mouth to 72nd Avenue N.E.: The first Saturday in June through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

From 72nd Avenue N.E. Bridge upstream: Closed waters.

Salmon Creek and all forks (Grays Harbor County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

Salmon Creek (Lewis County): Closed waters from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek.

Salmon Creek, mainstem (Okanogan County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Salmon Creek (Pacific County) (tributary of Naselle River) ~~((Pacific County))~~: The first Saturday in June through last day in February season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All ~~((species))~~ game fish: Release all fish except up to two hatchery steelhead per day may be retained.

Salmon Creek (Thurston County) (Black River tributary): From mouth to upstream: All species: Selective gear rules, night closure, and anti-snagging rule.

Salmon River (Jefferson County): Outside of Olympic National Park and Quinault Indian Reservation: The first Saturday in June through last day in February season. Trout: Minimum length fourteen inches. Hatchery steelhead in this river are steelhead with a dorsal fin height of less than 2-1/8 inches or with an adipose or ventral fin clip. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult Chinook salmon.

Salmonberry Creek (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.

Salt Creek (Clallam County): From mouth to bridge on Highway 112: First Saturday in June through ~~((October))~~ January 31 season. Selective gear rules. Release all fish except November 1 through ~~((the last day in February))~~ January 31. Up to 2 hatchery steelhead may be retained.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the I-5 Bridge: The first Saturday in June through November 30 season. Stationary gear restriction, anti-snagging rule, single-point hooks required, and night closure August 1 through November 30. Additional season December 1 through ~~((March))~~ December 31. All species: Selective gear rules and release all fish except up to 2 hatchery steelhead may be retained. Salmon: Open only August 1 through November 30. Daily limit 2 salmon. Release wild coho. Only fish hooked inside the mouth may be retained. Anglers must retain the first 2 salmon, if lawful to do so, and stop fishing.

From the I-5 Bridge to the Hickson Bridge: Closed waters from the old Highway 99 Bridge to the WDFW salmon rack. Closed waters from I-5 Bridge to old Highway 99 Bridge September 1 through November 30. First Saturday in June through ~~((March 31))~~ November 30 season. All species: Selective gear rules and release all fish except up to 2 hatchery steelhead may be retained.

From Hickson Bridge upstream: First Saturday in June through October 31 season. Selective gear rules.

Sammamish Lake (King County): Closed to fishing within 100 yards of the mouth of Issaquah Creek August 16 through November 30. Trout: Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length. Salmon: Open only August 16 through November 30. Daily limit four salmon, of which only two may be Chinook. Release sockeye.

Sammamish River (Slough) (King County)~~((;))~~: From the 68th Avenue N.E. Bridge to Lake Sammamish: January 1 through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout.

San Poil River (Ferry County):

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: Year-round season. Smallmouth bass: Daily limit ten fish, no more than one over 14 inches. Walleye: Daily limit 16 fish, no size limit. Salmon: Landlocked salmon rules apply. Carp: Unlawful to fish with bow and arrow. Rainbow trout: Daily limit five fish, no more than two over 20 inches, release all wild (adipose fin intact) fish. Kokanee salmon: Daily limit two fish. Sturgeon: Unlawful to fish for or retain.

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 upstream to approximately five miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys: All species: Closed waters February 1 through March 31. Smallmouth bass: Daily limit ten fish, no more than one over 14 inches. Walleye: Daily limit 16 fish, no size limit. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon. Carp: Unlawful to fish with bow and arrow. Sturgeon: Unlawful to fish for or retain.

From approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys to any and all waters that occur north of the regulatory buoy line at or above 1310 feet mean sea level elevation: Managed under regulatory authority of the Colville Confederated Tribe of Indians.

Sand Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Sandyshore Lake (Jefferson County): ~~((Last))~~ Fourth Saturday in April ~~((to))~~ through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

San Poil River (Ferry County): Unlawful to fish for or retain sturgeon.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of reduced fee licenses or designated harvester cards only.

Satsop Lakes (Grays Harbor County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Satsop River and East Fork (Grays Harbor County): ~~((From: Minimum length 14 inches in mainstem and all forks. Mainstem and East Fork.))~~ All species: Single point barbless hooks and night closure August 16 through November 30 ~~((except only August 16 through October 31 on East Fork upstream from bridge at Schafer State Park. Middle and West forks downstream from Cougar Smith Road anti-snagging rule and night closure August 16 through November 30. Middle and West Forks upstream from Cougar Smith Road anti-~~

~~snagging rule and night closure August 16 through October 31~~)).

From mouth to bridge at Schafer State Park: The first Saturday in June through March 31 season. Trout: Minimum length fourteen inches. Salmon: Open October 1 through January 31. October 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and Chinook. December 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.

From 400 feet downstream of Bingham Creek Hatchery barrier dam upstream to dam: Closed waters, except anglers who permanently use a wheelchair or have a designated harvester card may fish within posted markers. First Saturday in June through March 31 season. Salmon: Open October 1 through January 31. October 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and Chinook. December 1 through January 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.

From bridge at Schafer State Park upstream to 400 feet below Bingham Creek Hatchery Dam: All species: Single point barbless hooks and night closure August 16 through October 31. First Saturday in June through October 31 season. Trout: Minimum length fourteen inches, daily limit 2 fish.

From Bingham Creek Hatchery Dam upstream: All species: Single point barbless hooks and night closure August 16 through October 31. First Saturday in June through October 31 season. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Middle Fork (Turnow Branch)(-): From mouth to Cougar Smiths Road: ((The first Saturday in June through last day in February season)) All species: Night closure and anti-snagging rule from August 16 through October 31.

From mouth to Cougar Smith Road: First Saturday in June through last day in February season. Trout: Minimum length fourteen inches, daily limit 2 fish.

From Cougar Smith Road upstream: First Saturday in June through October 31 season. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

~~West Fork(, from mouth to Cougar Smith Road: The first Saturday in June through last day in February season))~~: All species: Night closure and anti-snagging rule from August 16 through October 31.

From mouth to Cougar Smith Road: First Saturday in June through last day in February season. Trout: Minimum length fourteen inches, daily limit 2 fish.

From Cougar Smith Road to USFS 23 Road Bridge at Spoon Creek: First Saturday in June through October 31 season. Trout: Minimum length eight inches, daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

From USFS 23 Road Bridge at Spoon Creek upstream: First Saturday in June through October 31 season. Eastern Brook Trout: No minimum size, daily limit 5 fish. Selective gear rules. All other trout: Minimum length eight inches,

daily limit 2 fish. Selective gear rules. Other game fish: Selective gear rules.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: The first Saturday in June through ~~((last day in February))~~ January 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to two hatchery steelhead may be retained per day.

~~((From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to two hatchery steelhead may be retained per day.))~~

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to two hatchery steelhead may be retained per day.

South Fork upstream from Elliot Creek: The first Saturday in June through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to two hatchery steelhead may be retained per day.

Sawyer, Lake (King County): Chumming permitted. Crappie: Daily limit ten, minimum length nine inches.

Scatter Creek (King County) (White River tributary): First Saturday in June through October 31 season.

Scatter Creek (Thurston County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Schafer Creek (Grays Harbor County) (Wynoochee River tributary): From mouth to USFS 22 Road: First Saturday in June through October 31 season. Trout: Minimum length eight inches. Selective gear rules. Other game fish: Selective gear rules.

Schneider Creek (Thurston County) from mouth to falls: First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum size 14 inches.

Scooteney Reservoir (Franklin County): Walleye: Minimum size 12 inches.

Sedge Lake (Grant County): All species: Selective gear rules. Trout: Daily limit 1.

Sekiu River (Clallam County):

From mouth to forks: First Saturday in June through ~~((October))~~ January 31 season. Selective gear rules ~~((and))~~. Release all fish ~~((Additional November 1 through last day in February season. Trout minimum length 14 inches))~~ except

November 1 through January 31, up to 2 hatchery steelhead may be retained.

From forks upstream: First Saturday in June through October 31 season. Selective gear rules and release all fish.

Serene Lake (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): (~~Last~~) Fourth Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Sherman Creek (Ferry County): From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except first Saturday in June through October 31 season from the mouth upstream to the hatchery boat dock.

Sherman Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Sherry Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season.

Sherwood Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Sherwood Creek Mill Pond (Mason County): The first Saturday in June through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shine Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Shiner Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Shoveler Lake (Grant County): April 1 through September 30 season.

Shye Lake (Grays Harbor County): The first Saturday in June through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: First Saturday in June through October 31 season. Selective gear rules and release all fish.

Silent Lake (Jefferson County): (~~Last~~) Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Silesia Creek (Chiliwack River tributary) (Whatcom County): First Saturday in June through October 31 season.

Silvas Creek (Klickitat County): Trout: Release all trout.

Silver Creek (tributary to Cowlitz River) (Lewis County)(~~;~~): Mouth to USFS Road 4778: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches.

Silver Creek (Skagit County) (Samish River tributary): First Saturday in June through October 31 season. Selective gear rules.

Silver Creek (Whatcom County)(Nooksack River tributary): First Saturday in June through October 31 season. Selective gear rules.

Silver Lake (Cowlitz County): Crappie: Daily limit ten crappie. Minimum size nine inches in length.

Silver Lake (Pierce County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Silver Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Silver Lake, North (Spokane County): March 1 through September 30 and November 1 through December 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. March 1 through September 30: Trout: (~~Daily limit 2 fish,~~) Minimum length 14 inches, except release fish with clipped adipose fin. November 1 through December 31: All species: Release all fish.

Silver Lake (Whatcom County): (~~Last~~) Fourth Saturday in April through October 31 season.

Silver Nail Lake (Okanogan County): Juveniles only.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Whitefish gear rules apply. Salmon: Open only July 1 through September 15. Daily limit 6 Chinook, of which no more than 3 may be adult salmon, and of these three adult salmon only one may be a wild adult Chinook. Release coho and sockeye. Anti-snagging rule and night closure July 1 through September 15.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season. Whitefish gear rules apply.

Sinlahekin Creek (Okanogan County)(~~;~~): From Palmer Lake to Cecile Creek bridge: The first Saturday in June through August 31 season. Selective gear rules. Unlawful to

fish from a floating device equipped with an internal combustion motor. Additional December 1 through March 31 season. Whitefish gear rules apply.

Sitkum River (Clallam County) (Calawah River tributary):  
From mouth upstream: The first Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Selective gear rules. Other game fish: Selective gear rules.

Sixteen Lake (Skagit County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): ~~((Year-round))~~ June 1 through January 31 season. ~~((Selective gear rules February 15 through May 31.))~~ Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: In years ending in even numbers, open September 1 through December 31. Daily limit 3 salmon. Release Chinook and chum. In years ending in odd numbers, open August 1 through December 31. Daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: June 1 through ~~((February 15))~~ January 31 season. Night closure and anti-snagging rule July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. ~~((Additional February 16 through March 15 season. All species: Release all fish except up to 2 hatchery steelhead may be retained. Selective gear rules. Unlawful to fish from a floating device while under power.))~~ Salmon: In years ending in even numbers, open September 1 through December 31. Daily limit 3 salmon. Release Chinook and chum. In years ending in odd numbers, open August 1 through December 31. Daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From Gilligan Creek to the Dalles Bridge at Concrete: June 1 through ~~((February 15))~~ January 31 season. Anti-snagging rule and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit; minimum length twenty inches. ~~((Additional season: February 16 through March 15. All species: Release all fish except up to 2 hatchery steelhead may be retained. Selective gear rules. Unlawful to fish from a floating device while under power.))~~ Salmon: In years ending in even numbers, open September 16 through December 31. Daily limit 3 salmon. Release Chinook and chum. In years ending in odd numbers, open August 16 through December 31. Daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From the Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport: June 1 through ~~((February 15))~~ January 31 season, except closed June 1 through August 31, between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Anti-snagging rule and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as

part of the trout daily limit; minimum length twenty inches. ~~((Additional season: February 16 through April 30. Selective gear rules. Unlawful to fish from a floating device while under power. All species: Release all fish except up to 2 hatchery steelhead may be retained.))~~ Salmon: Open September 16 through December 31. In years ending in even numbers, daily limit 3 salmon. Release Chinook and chum. In years ending in odd numbers, daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From the Highway 530 Bridge at Rockport to the Cascade River Road: June 1 through February 15 season. Anti-snagging rule and night closure June 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit; minimum length twenty inches. ~~((Additional season: February 16 through April 30. Selective gear rules. Unlawful to fish from a floating device while under power. All species: Release all fish except up to 2 hatchery steelhead may be retained.))~~ Salmon: Open June 1 through July 15. Daily limit 4 hatchery Chinook salmon, of which only 2 may be adult hatchery Chinook. September 16 through December 31: In years ending in even numbers, daily limit 3 salmon. Release Chinook and chum. In years ending in odd numbers, daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From Cascade River Road to Gorge Powerhouse: June 1 through ~~((March 15))~~ January 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to 2 hatchery steelhead may be retained per day.

From Gorge Dam to Ross Dam and all tributaries to this section except Stetattle Creek: First Saturday in June through October 31 season.

Skamokawa Creek (Wahkiakum County)~~((;))~~: Mouth to forks just below Oatfield and Middle Valley Road: June 1 through October 31 season. Trout: Release all trout except up to two hatchery steelhead may be retained.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin.

Skokomish River (Mason County)~~((;))~~: Mouth to Highway 106 Bridge: Night closure, anti-snagging rule and single point barbless hooks required August 1 through November 30. The first Saturday in June through July 31 and October 1 through December 15 season. All game fish: Release all fish. Salmon: Open August 1 through December 15. Terminal gear restricted to no closer than 25 feet of a tribal gill net. August 1 through September 30: Daily limit 2 salmon, except release chum and wild Chinook. Only fish hooked inside the mouth may be retained; and anglers must keep the first 2 salmon, if legal to do so and stop fishing for the day. October 1 through December 15: Daily limit 6 salmon, of which no more than 4 adult fish may be retained. Release Chinook. October 1 through October 15 release chum salmon.

From Highway 106 Bridge to Highway 101 Bridge: Night closure, anti-snagging rule and single point barbless

hooks required August 1 through November 30. The first Saturday in June through July 31 and October 1 through December 15 season. All game fish: Release all fish. Salmon: Open only August 1 through December 15, except closed August 1, 8, 9, 15, 16, 22, 23, and 29, 30, and September 6. Terminal gear restricted to no closer than 25 feet of a tribal gill net. August 1 through September 30: Daily limit 2 salmon, except release chum and wild Chinook; only fish hooked inside the mouth may be retained; and anglers must keep the first 2 salmon, if legal to do so and stop fishing for the day. October 1 through December 15, daily limit 6 salmon, except daily limit may contain no more than 4 adult fish and release Chinook. October 1 through October 15 release chum salmon.

From Highway 101 Bridge to forks: First Saturday in June through October 31 season. Selective gear rules and release all fish.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: The first Saturday in June through October 31 season. All species: Release all fish. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Above Lake Cushman(,): Mouth to Olympic National Park boundary: The first Saturday in June through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Release all fish.

Skokomish River, South Fork (Mason County):

From mouth to mouth of LeBar Creek: First Saturday in June through October 31 season. All species: Release all fish. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

From mouth of Rule Creek to headwaters: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches.

Skookum Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Skookum Lake, North (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Skookum Lake, South (Pend Oreille County): Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Skookumchuck Creek (Klickitat County): Trout: Release all trout.

Skookumchuck Reservoir (Thurston County): The first Saturday in June through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County): All Species: Night closure and single point barbless hooks required from August 16 through November 30.

From mouth to one hundred feet below the outlet of the Trans Alta steelhead rearing pond located at the base of the Skookumchuck Dam: The first Saturday in June through

April 30 season. ~~((Single point barbless hooks and night closure August 16 through November 30.))~~ Trout: Minimum length fourteen inches. Salmon: Open only October 16 through last day in February. October 16 through November 30, daily limit 6 fish of which no more than 2 may be adult salmon, and of the adult salmon, only 1 may be wild adult coho. Release chum and Chinook. December 1 through last day in February, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.

From Skookumchuck Reservoir upstream ~~((and all tributaries))~~: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length ~~((twelve))~~ eight inches.

Skykomish River (Snohomish County):

From mouth to mouth of Wallace River to the forks: June 1 through ~~((February 15))~~ January 31 season, except open February 1 through February 15 from the Highway 2 Bridge at the Big Eddy Access to the confluence of the North and South forks. Anti-snagging rule and night closure August 1 through November 30 mouth to Lewis Street Bridge in Monroe and June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River. Fishing from any floating device prohibited November 1 through ~~((February 15))~~ January 31 from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open June 1 through July 31 mouth to Wallace River. Daily limit 2 hatchery Chinook. In years ending in even numbers, open September 1 through December 31 mouth to Wallace River. Daily limit 2 coho only. In years ending in odd numbers, open August 16 through December 31 mouth to Lewis Street Bridge in Monroe and open September 1 through December 31 Lewis Street Bridge to Wallace River. Daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From the mouth of the Wallace River to the forks: June 1 through ~~((February 15))~~ January 31 season ~~((except closed June 1 through July 31 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Reiter Ponds. Anti-snagging rule and night closure August 1 through November 30.))~~. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Reiter Ponds August 1 through February 15. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open September 1 through December 31. In years ending in even numbers, daily limit 2 coho only. In years ending in odd numbers, daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: The first Saturday in June through ~~((February 15))~~ January 31 season. Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

From Deer Falls (about 1/4 mile upstream of Goblin Creek) upstream, including tributaries and their tributaries: First Saturday in June through October 31 season.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: The first Saturday in June through ~~(February 15))~~ January 31 season. Anti-snagging rule and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From Sunset Falls to source including all tributaries and their tributaries: The first Saturday in June through November 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish. All tributaries: Closed waters.

Slate Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Sloan Creek (Snohomish County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish.

Smith Creek (near North River) (Pacific County): ~~((The first Saturday in June through last day in February season, except sturgeon.))~~ Single point barbless hooks and night closure August 16 through November 30 upstream to the Highway 101 Bridge. ~~((All game fish: Release all fish except up to 2 hatchery steelhead per day may be retained.))~~ Salmon: Open only September 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish, of which no more than 2 may be adult salmon and of those 2 adult salmon, 1 may be wild adult coho. Release chum and wild Chinook. Sturgeon: Open year-round from mouth to Highway 101 Bridge.

From mouth to Highway 101 Bridge: All game fish: The first Saturday in June through last day in February season. All fish must be released except up to two hatchery steelhead may be retained.

From Highway 101 Bridge upstream: All game fish: The first Saturday in June through last day in February season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All fish must be released except up to two hatchery steelhead may be retained.

Smith Creek (Pacific County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Smith Creek (Whatcom County) (Nooksack River tributary): First Saturday in June through October 31 season. Selective gear rules.

Snahapish River (Jefferson County) (Clearwater River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Minimum length fourteen inches. Other game fish: Selective gear rules.

Snake River: Year-round season. Closed to the taking of all trout April 1 through June 15. All species: April 24 through June 15 from Texas Rapids boat launch upstream to the Corps of Engineers boat launch approximately 1 mile upstream of Little Goose Dam: Night closure, barbless hooks only, and hooks must measure 5/8 inch or less from point to shank. Trout: Daily limit six, minimum length ten inches, no more than three over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Sturgeon: Release all sturgeon from August 1 through January 31 from the mouth to Ice Harbor Dam. Closed to fishing for sturgeon from May 1 through July 31 from the downstream end of Goose Island to Ice Harbor Dam. Unlawful to retain sturgeon in mainstem and tributaries upstream from Lower Granite Dam. Walleye: Daily limit 10 fish. No minimum size. No more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Channel catfish: No daily limit. Salmon: Open only April 24 through June 15 from Texas Rapids boat launch upstream to the Corps of Engineers boat launch approximately 1 mile upstream of Little Goose Dam. Daily limit 1 hatchery Chinook.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): April 1 through September 30 season.

Snipes Creek (Benton County): Selective gear rules.

Snohomish River (Snohomish County)((-)): Including all channels, sloughs, and interconnected waterways, but excluding all tributaries: The first Saturday in June through ~~((February 15))~~ January 31 season, except sturgeon. Anti-snagging rule and night closure August 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: In years ending in even numbers, open only September 1 through December 31. Daily limit 2 coho only. In years ending in odd numbers, open August 16 through December 31. Daily limit 3 salmon plus 1 additional pink. Release Chinook and chum. Sturgeon: Open year-round for catch and release from mouth to Highway 2 Bridge.

Snoqualmie River (King County):

From mouth to the falls: The first Saturday in June through ~~((last day in))~~ February 15 season, except the first Saturday in June through ~~((February 15))~~ January 31 from the mouth to the boat launch at ~~((Plumb))~~ Plum. Waters within the Puget Power tunnel at the falls and within fifty feet of any

point on Puget Power's lower Plant #2 building (north bank) are closed waters. The first Saturday in June through November 30 selective gear rules. Fishing from any floating device prohibited November 1 through ~~((last day in))~~ February 15 from the mouth of Tokul Creek downstream to the boat ramp at Plum access, about one-quarter mile. Night closure September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 3 coho only. In years ending in odd numbers, from mouth to Plum access, daily limit 3 salmon plus 1 additional pink. Release Chinook and chum.

From Snoqualmie Falls upstream, including the North and South Forks: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length ten inches. Additional November 1 through the Friday before the first Saturday in June season. Selective gear rules. All species: Release all fish. All tributaries except Tate, Sunday and Phillapa creeks: First Saturday in June through October 31 season.

Snoqualmie Middle Fork from mouth to source including all tributaries except Pratt and Taylor rivers: Year-round season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Snyder Creek (Klickitat County): Trout: Release all trout.

Solberg Creek (Clallam County) (Big River tributary): From mouth upstream: The first Saturday in June through October 15 season. Trout: Minimum length fourteen inches. Release kokanee. Selective gear rules. Other game fish: Selective gear rules.

Sol Duc River (Clallam County):

From mouth to concrete pump station at the Sol Duc Hatchery: ~~((Open year round. May 1 through the Friday before the first Saturday in June, release all game fish except up to two hatchery steelhead per day may be retained. First Saturday in June through April 30, trout:))~~ All game fish: May 1 through the Friday before the first Saturday in June season. Catch and release except up to 2 hatchery steelhead may be retained. Trout: First Saturday in June through April 30 season. Minimum length fourteen inches. November 1 through last day in February, daily limit may include 1 additional hatchery steelhead. February 16 through April 30, ~~((one))~~ wild steelhead ~~((per day may be retained))~~ retention allowed. Salmon: ~~((Open only))~~ February 1 through ~~((November 30. February 1 through))~~ August 31, daily limit 6 fish of which no more than 2 may be adults ~~((salmon))~~. Release wild adult Chinook and wild adult coho. September 1 through November 30, daily limit 6 fish of which no more than 4 may be adults ~~((salmon))~~, and of the 4 adults ~~((salmon))~~, no more than 2 may be any combination of Chinook, wild coho, pink, sockeye, and chum salmon.

From concrete pump station at Sol Duc Hatchery to Highway 101 Bridge ~~((downstream of Snider Creek))~~ upstream of Klahowya Camp Ground: First Saturday in June through April 30 season. Trout: Minimum length fourteen inches. ~~((November 1 through April 30:))~~ Selective gear rules. ~~((Unlawful to fish from a floating device equipped~~

~~with an internal combustion motor.))~~ Other game fish: Selective gear rules.

From Highway 101 Bridge ~~((downstream of Snider Creek to Olympic National Park boundary: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Release all fish except up to two hatchery steelhead may be retained))~~ upstream of Klahowya Camp Ground to Olympic National Park boundary: First Saturday in June through October 31 season. All game fish: Catch and release, except up to 2 hatchery steelhead may be retained. Selective gear rules.

Solleks River (Jefferson County) (Clearwater River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Minimum length fourteen inches. Other game fish: Selective gear rules.

Sooes River (Suez River) (Clallam County): Outside of Makah Indian Reservation: The first Saturday in June through ((last day in February)) October 31 season. Trout: Minimum length fourteen inches. All species: Selective gear rules. Additional season November 1 through February 28. Trout: Minimum length fourteen inches.

Soos Creek (King County)(-): From mouth to hatchery rack: The first Saturday in June through August 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County)(-): From city of Buckley diversion dam upstream: First Saturday in June through October 31 season.

South Skookum Lake (Pend Oreille County): Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Spada Lake (Reservoir) (Snohomish County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Maximum length twelve inches.

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

Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year-round season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Spearfish Lake (Klickitat County): ~~((Last))~~ Fourth Saturday in April through last day in February season.

Spectacle Lake (Okanogan County): April 1 through September 30 season.

Spencer Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Spirit Lake (Skamania County): Closed waters.



Spokane River (Spokane County):

From SR 25 Bridge upstream to 400 feet below Little Falls Dam: Year-round season, except walleye: Trout: Daily limit five, no minimum size, no more than two over 20 inches in length. Kokanee: Daily limit six, no minimum size, no more than two with intact adipose fins may be retained. Walleye: Daily limit sixteen, no minimum size, no more than one over 22 inches in length. Salmon: Year-round. Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon. Two pole fishing allowed.

From Little Falls Dam to the upstream boundary (~~(at)~~) of the Plese Flats Day Use Area (Riverside State Park), except Long Lake, formed by Long Lake Dam (see also Long Lake): Year-round season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit eight, no minimum length, no more than one over twenty-two inches in length. April 1 through May 31 release all walleye. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From the upstream boundary at Plese Flats Day Use Area (Riverside State Park) upstream to the Monroe Street Dam: June 1 through March 15 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Monroe Street Dam upstream to Upriver Dam: Year-round season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: The first Saturday in June through March 15 season. Selective gear rules. All species: Release all fish.

Sprague Lake (Adams/Lincoln counties): Closed waters: Waters of Cow Creek, the marsh at the southwest end of the lake from the lakeside edge of the reeds to Danekas Road, the small bay at the southeast end of the lake, and those waters within 50 feet of Harper Island. All other waters southwest of the southwest tip of Harper Island: Closed waters from October 1 through April 30. Trout: No more than two over twenty inches in length may be retained. Crappie and bluegill: Combined daily limit twenty-five fish. Crappie: Minimum length nine inches.

Spring Creek (Benton County): Selective gear rules.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County): (~~(Last)~~) Fourth Saturday in April through October 31 season. July 5 through October 31, selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Creek (Whatcom County): First Saturday in June through October 31 season. Selective gear rules.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Squire Creek (Snohomish County) (NF Stillaguamish River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to two hatchery steelhead may be retained.

Stan Coffin Lake (Grant County): Bass: Release all bass.

Starvation Lake (Stevens County): (~~(Last)~~) Fourth Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Stearns Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Steel Lake (King County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Stehekin River (Chelan County)(~~(-)~~): From the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length fifteen inches. Release cutthroat. Additional March 1 through June 30 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Steilacoom Lake (Pierce County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Stetattle Creek (Whatcom County): Above the mouth of Bucket Creek (one and one-half miles upstream): First Saturday in June through October 31 season.

Stevens Creek (Grays Harbor County)(~~(-)~~): Mouth to Highway 101 Bridge: The first Saturday in June through September 30 and December 1 through last day in February season. Trout: Minimum length fourteen inches. Closed waters from WDFW hatchery outlet downstream 400 feet.

From Highway 101 Bridge upstream to the Newbury Creek Road Bridge: First Saturday in June through October 31 season. All species: Selective gear rules.

Stevens, Lake (Snohomish County): Chumming permitted. Kokanee: Kokanee not included in trout daily limit. Kokanee daily limit ten fish.

Steves Lake (Mason County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Stickney Lake (Snohomish County): (~~(Last)~~) Fourth Saturday in April through October 31 season.

Stillaguamish River (Snohomish County):

From ~~((mouth to))~~ Marine Drive, including all sloughs: Year-round season. Anti-snagging rule and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open September 1 through December 31. In years ending in even numbers, daily limit 2 coho only. In years ending in odd numbers, daily limit 2 salmon plus 2 additional pink. Release Chinook and chum.

From Marine Drive to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: The first Saturday in June through ~~((November 30))~~ January 31. Night closure and selective gear rules. All game fish: First Saturday in June through November 30 season. Release all fish except up to 2 hatchery steelhead per day may be retained. ~~((Additional season:))~~ December 1 through February 15. Trout: Minimum length fourteen inches. Salmon: Open September 1 through December 31. In years ending in even numbers, daily limit 2 coho only. In years ending in odd numbers, daily limit 2 salmon plus 2 additional pink. Release Chinook and chum.

Stillaguamish River, North Fork (Snohomish County)~~((:))~~: From mouth to ~~((Swede Heaven Bridge))~~ mouth of French Creek: The first Saturday in June through ~~((February 15))~~ January 31 season. Anti-snagging rule and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. The first Saturday in June through November 30: Fly fishing only. All species: Release all fish except 2 hatchery steelhead per day may be retained. December 1 through ~~((February 15))~~ January 31: Trout: Minimum length fourteen inches.

From mouth of French Creek to Swede Heaven Bridge: First Saturday in June through February 15 season. Anti-snagging rule and night closure August 1 through November 30. First Saturday in June through November 30: Fly fishing only. All species: Release all fish except 2 hatchery steelhead per day may be retained. Trout: December 1 through February 15: Minimum length fourteen inches.

From Swede Heaven Bridge to falls approximately one mile upstream of Cascade Creek: First Saturday in June through October 31 season. All species: Selective gear rules and release all fish except up to 2 hatchery steelhead may be retained.

Upstream of falls including tributaries and their tributaries: First Saturday in June through October 31 season.

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: The first Saturday in June through ~~((February 15))~~ January 31 season. Anti-snagging rule and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From Mt. Loop Highway Bridge above Granite Falls to source: The first Saturday in June through November 30 season. Selective gear rules and unlawful to fish from a floating device equipped with a motor. Anti-snagging rule and night closure August 1 through November 30.

Stillman River (Lewis County) (Chehalis River tributary): From mouth to water supply pipeline at Mill Creek: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Stimson Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Storm Lake (Snohomish County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Stowe Creek (Lewis County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Straight Creek (Snohomish County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout daily limit 5, no more than 2 over 15 inches in length.

Suiattle River (Skagit County): First Saturday in June through October 31 season. Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County)~~((:))~~: From Mill Pond upstream and tributaries: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Sullivan Lake (Pend Oreille County): Trout: Daily limit 2 trout, except kokanee not counted in daily trout limit. Kokanee daily limit ten.

Sulphur Creek (Snohomish County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Sultan River (Snohomish County)~~((:))~~: From its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: The first Saturday in June through ~~((February 15))~~ January 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Upstream of the diversion dam to Culmback Dam: First Saturday in June through October 31 season.

Sumas River (Whatcom County): Including all tributaries except Johnson Creek: First Saturday in June through October 31 season.

Summit Lake (Stevens County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Summit Lake (Thurston County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Susan Lake (Thurston County): Selective gear rules and release all fish.

Sutherland Lake (Clallam County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Minimum length six inches and maximum length eighteen inches.

Swale Creek (Klickitat County): Trout: Release all trout.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): The first Saturday in June through August 31 season. Juveniles only.

Swan Lake (Ferry County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

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

Swauk Creek (Kittitas County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Swift Reservoir (Skamania County): ~~((Last))~~ Fourth Saturday in April through November 30 season. From posted markers below Eagle Cliff Bridge to Bridge: Selective gear rules. ~~((Salmon: Landlocked salmon rules apply.))~~

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Sylvia Creek (Grays Harbor County) (Wynoochee River tributary): From mouth upstream: First Saturday in June through October 31 season. Trout: Minimum length eight inches. All species: Selective gear rules.

Sylvia Lake (Grays Harbor County): Trout: No more than two over 15 inches in length may be retained per day.

Symington Lake (Kitsap County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Tacoma Creek and tributaries (Pend Oreille County): Trout: Eastern brook trout not counted in daily trout limit. Eastern brook trout daily limit ten. Once the daily limit of trout other than eastern brook trout has been achieved, the entire daily limit for trout other than eastern brook trout and eastern brook trout has been taken.

Tahuya River (Mason County): From mouth to marker approximately 1 mile upstream of North Shore Road Bridge:

First Saturday in June through August 15 and October 1 through October 31 season. Selective gear rules, unlawful to fish from a floating device equipped with an internal combustion motor, and release all fish except salmon. Night closure October 1 through October 31. Salmon: Open only October 1 through October 31. Daily limit 2 coho salmon.

From marker approximately one mile upstream of North Shore Road Bridge upstream: First Saturday in June through August 15 and October 1 through October 31 season. Selective gear rules, unlawful to fish from a floating device equipped with an internal combustion motor, and release all fish. Night closure October 1 through October 31.

Taneum Creek (Kittitas County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Tanwax Creek (Thurston County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Tanwax Lake (Pierce County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee. Crappie: Daily limit ten, minimum length nine inches.

Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year-round season.

Tarboo Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Tarboo Lake (Jefferson County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Teal Lakes (North and South) (Grant County): April 1 through September 30 season.

Teal Lake (Jefferson County): Fishing from a floating device equipped with an internal combustion engine prohibited. Selective gear rules. Trout daily limit one fish.

Teanaway River (Kittitas County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout.

Teanaway River, North Fork (Kittitas County): Mouth to Beverly Creek including all tributaries: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout. Beverly Creek to impassable waterfall at the end of USFS Road 9737 (about 8 river miles): Closed waters.

Tee Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Tenas Creek (Skagit County) (Suiattle River tributary): First Saturday in June through October 31 season. Selective gear rules.

Tenas Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Ten Mile Creek (Whatcom County) (Nooksack River tributary): First Saturday in June through October 31 season. Selective gear rules.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Tern Lake (Grant County): All species: Selective gear rules. Trout: Daily limit 1.

Terrell Creek (Whatcom County): First Saturday in June through October 31 season. Selective gear rules.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 31 except fishing from floating dock permitted.

Thomas Creek (Skagit County) (Samish River tributary): First Saturday in June through October 31 season. Selective gear rules.

Thomas Lake (Stevens County): (~~Last~~) Fourth Saturday in April through October 31 season.

Thompson Creek (Thurston County) (Skookumchuck River tributary): From mouth upstream: All Species: Selective gear rules. Night closure and single point barbless hooks required from August 16 through November 30. Unlawful to fish from a floating device equipped with an internal combustion motor. The first Saturday in June through October 31 season. Trout: Minimum length eight inches.

Thorndyke Creek (Jefferson County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Thornton Creek (tributary to Lake Washington) (King County): The first Saturday in June through August 31 season. Juveniles only.

Thorton Creek (Skagit County): First Saturday in June through October 31 season. All species: Release all fish except up to two hatchery steelhead may be retained.

Thread Lake (Adams County): April 1 through September 30 season.

Tibbetts Creek (tributary to Lake Sammamish) (King County): The first Saturday in June through August 31 season. Juveniles only.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Selective gear rules and unlawful to fish from a floating device equipped with an internal combus-

tion motor the first Saturday in June through October 31. Additional December 1 through March 31 season: Whitefish gear rules apply.

Tieton River, North Fork (Yakima County): Closed waters: Clear Lake spillway channel and the river within 400' of Clear Lake Dam. Entire river, including that portion of the river that flows through the dry lakebed of Rimrock Reservoir: The first Saturday in June through August 15 season.

Tieton River, South Fork (Yakima County): From the bridge on USFS Road 1200 to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Tilton River (Lewis County)(~~(?)~~): From mouth to West Fork: The first Saturday in June through March 31 season. Night closure and anti-snagging rule September 1 through October 31. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained. Trout: Daily limit five, no more than one over twelve inches in length. Release cut-throat. Release rainbow trout except rainbow trout having a clipped adipose fin and a healed scar at the site of the clipped fin. Salmon: Open only first Saturday in June through December 31. Minimum length eight inches. First Saturday in June through July 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release wild coho. August 1 through December 31, daily limit 6 fish, of which no more than 2 may be adult Chinook. Release wild coho.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): (~~Last~~) Fourth Saturday in April through October 31 season.

Tokul Creek (King County)(~~(?)~~) (Snoqualmie River tributary) and tributaries including beaver ponds above Tokul Road SE: First Saturday in June through October 31 season.

From mouth to the Fish Hatchery Road Bridge: December 1 through (~~last day in~~) February 15 season, closed 5:00 p.m. to 7:00 a.m. daily. Anti-snagging rule. Trout: Minimum length fourteen inches.

From Fish Hatchery Road Bridge to posted cable boundary marker located approximately four hundred feet downstream of the hatchery intake: January 15 through (~~last day in~~) February 15 season, closed 5:00 p.m. to 7:00 a.m. daily. Anti-snagging rule. Trout: Minimum length 14 inches.

~~((From the posted cable boundary marker located approximately four hundred feet downstream of the hatchery intake to the railroad trestle: Closed waters:))~~

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: The first Saturday in June through (~~February 15~~) January 31 season. The first Saturday in June through November 30, selective gear rules. Unlawful to fish from a floating device equipped with an

internal combustion motor. Trout: Minimum length fourteen inches.

From falls upstream on North Fork: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

From dam upstream on South Fork: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length ten inches.

Touchet River (Columbia/Walla Walla counties):

From confluence of north and south forks upstream, including Robinson and Wolf Forks: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all steelhead. Tributaries other than North Fork, South Fork, Robinson Fork, and Wolf Fork: Closed waters.

North Fork: Upstream of Spangler Creek the first Saturday in June through August 31 season.

South Fork: Upstream from Griffin Creek the first Saturday in June through August 31 season.

Wolf Fork: Upstream from Coates Creek the first Saturday in June through August 31 season.

From mouth to confluence of north and south forks: Additional season: November 1 through March 31. Barbless hooks required. All species: Release all fish except hatchery steelhead and brown trout. Trout: Daily limit three fish.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: The first Saturday in June through November 30 season. Anti-snagging rule and night closure September 1 through October 15 on North Fork from confluence with South Fork to mouth of Green River. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult Chinook. Release chum, wild coho, and wild Chinook.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. The first Saturday in June through November 30 season. All species: Release all fish except hatchery steelhead. Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March ~~(31)~~ 15 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except hatchery steelhead.

Trail's End Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Trap Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 15 season. Selective gear rules.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (Clallam County) (Big River tributary): From mouth upstream: The first Saturday in June through October 15 season. Trout: Minimum length fourteen inches. Release kokanee. Selective gear rules. Other game fish: Selective gear rules apply.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): The first Saturday in June through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the mouth upstream to Turner Road Bridge: Additional November 1 through March 31 season. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Turner Road Bridge upstream to the Tucannon Hatchery Bridge: Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor the first Saturday in June through October 31. Additional season November 1 through March 31. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Tucannon Hatchery Bridge upstream to 500 feet above the Rainbow Lake intake: Closed waters.

From 500 feet above the Rainbow Lake intake to the Cow Camp Bridge: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Release steelhead.

From Cow Camp Bridge upstream: Closed waters.

Tucuala Lake (Kittitas County): The first Saturday in June through October 31 season.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Twin Lake (Mason County): Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County)~~((;))~~: From mouth to War Creek: The first Saturday in June through August 15 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

Tye River (King County): Foss River to Alpine Falls the first Saturday in June through October 31 season: All species: Selective gear rules. Unlawful to fish from a floating device

equipped with an internal combustion motor. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. All tributaries to this section and their tributaries: First Saturday in June through October 31 season.

From Alpine falls upstream including all tributaries: First Saturday in June through October 31 season.

U Lake (Mason County): (~~Last~~) Fourth Saturday in April through October 31 season.

Umbrella Creek (Clallam County): Outside Olympic National Park, and tributaries, including Elk Lake: The first Saturday in June through October 15 season. Trout: Minimum length fourteen inches. Release kokanee. Selective gear rules. Other game fish: Selective gear rules.

Umtanum Creek (Kittitas County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor.

Uncle John Creek (Mason County): First Saturday in June through October 31 season. Selective gear rules. Trout: Release all trout.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County): Mouth to North Shore Road Bridge: First Saturday in June through August 15 season. All species: Release all fish.

From North Shore Road Bridge to lower bridge on Old Belfair Highway: The first Saturday in June through August 15 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

From lower bridge on Old Belfair Highway upstream to watershed boundary: First Saturday in June through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): First Saturday in June through October 31 season. Juveniles only.

Vance Creek (Grays Harbor County) (Chehalis River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: (~~Last~~) Fourth Saturday in April through November 30 season. Juveniles, holders of a senior license and holders of a department reduced fee license or a designated harvester card only. Trout: No more than two over 15 inches in length may be retained per day. Salmon: Landlocked salmon rules apply. Pond Two: (~~Last~~) Fourth Saturday in April through November 30 season. Trout: No more than two over 15 inches in length may be retained per day. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches. Sturgeon: Seasons, days of the week, daily limits, and size limits same as in adjacent waters of mainstem Columbia River.

Vanes Lake (Pend Oreille County): (~~Last~~) Fourth Saturday in April through October 31 season.

Van Winkle Creek (Grays Harbor County): Mouth to 400 feet below outlet of Lake Aberdeen Hatchery: All species: Anti-snagging rule and night closure August 16 through November 30. (~~Game fish~~) Trout: Minimum length 14 inches. Salmon: Open only September 1 through January 31. Daily limit 6 fish, of which no more than 2 may be adult fish. Release chum, Chinook and wild coho.

From Lake Aberdeen upstream: All species: Anti-snagging rule and night closure August 16 through November 30. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Vesta Creek and all forks (Grays Harbor County) (North River tributary): From mouth upstream: All game fish: The first Saturday in June through October 31 season. Selective gear rules.

Vic Meyers (Rainbow) Lake (Grant County): (~~Last~~) Fourth Saturday in April through September 30 season.

Vogler Lake (Skagit County): (~~Last~~) Fourth Saturday in April through October 31 season. Fly fishing only. All species: Release all fish.

Voight Creek (Pierce County): From falls under powerline upstream: First Saturday in June through October 31 season.

Waddell Creek (Thurston County) (Black River tributary): From mouth upstream: The first Saturday in June through October 31 season. Trout: Selective gear rules. Daily limit 2 fish, minimum length eight inches. Other game fish: Selective gear rules.

Wagners Lake (Snohomish County): (~~Last~~) Fourth Saturday in April through October 31 season.

Wahkiacus Creek (Klickitat County): Trout: Release all trout.

Waitts Lake (Stevens County): (~~Last~~) Fourth Saturday in April through last day in February season.

Walker Lake (King County): (~~Last~~) Fourth Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to 200 feet upstream of the water intake of the salmon hatchery: The first Saturday in June through (~~last day in~~) February 15 season. Closed waters: From 363rd Avenue S.E./Reece Road to a point two hundred feet upstream of the water intake of the salmon hatchery during the period the first Saturday in June through September 15.

Fishing from any floating device prohibited November 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through November 30. Daily limit 2 coho.

From 200 feet upstream of the water intake of the salmon hatchery to Wallace Falls: November 1 through (~~last day in February~~) January 31 season. Fishing from any floating device prohibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From Wallace Falls upstream including all tributaries and their tributaries: First Saturday in June through October 31 season.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year-round season. Trout: Barbless hooks required when fishing for steelhead. Trout: Release trout April 1 through May 31. Daily limit three hatchery steelhead. Channel catfish: No daily limit.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Channel catfish: No daily limit. Additional season November 1 through March 31. All species: Barbless hooks required and release all fish except hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. (~~Last~~) Fourth Saturday in April through October 31 season. Selective gear rules. Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season.

Wapato Lake (Chelan County): (~~Last~~) Fourth Saturday in April through October 31 season. From August 1 through October 31: Selective gear rules. Trout: Release all trout.

Wapato Lake (Pierce County): Juveniles only.

Ward Creek (Pacific County) (Willapa River tributary): From mouth upstream: All game fish: First Saturday in June through October 31 season. Selective gear rules.

Ward Lake (Ferry County): (~~Last~~) Fourth Saturday in April through October 31 season.

Ward Lake (Thurston County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Warden Lake and Warden Lake, South (Grant County): (~~Last~~) Fourth Saturday in April through September 30 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washburn Lake (Okanogan County): (~~Last~~) Fourth Saturday in April through October 31 season. Trout: Daily limit two.

Washington Creek (Mason County): First Saturday in June through October 31 season.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming permitted. Trout: December 1 through last day in February, daily limit 5, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit 5, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye less than fifteen inches in length are kokanee while those fifteen inches and over in length are sockeye salmon. Salmon: Open only September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge. Daily limit four coho salmon.

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): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year-round. Trout: December 1 through last day in February daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

Washougal River (Clark County): Night closure year-round.

From mouth to bridge at Salmon Falls: The first Saturday in June through March 15 season. Closed waters from 400 feet below to 200 feet above the temporary weir while the weir is installed in the river. Anti-snagging rule and stationary gear restriction July 1 through October 31. When anti-snagging rule is in effect, only fish hooked inside the mouth may be retained. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult Chinook. Release chum, wild coho, and wild Chinook.

From mouth to Mt. Norway Bridge: Additional April 16 through the Friday before the first Saturday in June season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

From bridge at Salmon Falls to its source, including tributaries: Closed waters.

Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: The first Saturday in June through March 15 season. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited. Trout: No more than 2 trout over 13 inches in length may be retained.

Waughop Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Wenaha River tributaries within Washington: The first Saturday in June through August 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Release all steelhead.

Wenatchee Lake (Chelan County): Selective gear rules. Trout except kokanee: Daily limit two, minimum length twelve inches. Release kokanee. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River, including Lake Jolanda (Chelan County): December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. Whitefish gear rules apply.

Wentworth Lake (Clallam County): Unlawful to fish from a floating device equipped with an internal combustion engine.

West Evans Pond (Asotin County): Trout: No more than 2 trout over 13 inches in length may be retained.

West Twin River (Clallam County): First Saturday in June through October 31 season. Selective gear rules and release all fish.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: The first Saturday in June through last day in February season. Anti-snagging rule and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon. 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.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: (~~Last~~) Fourth Saturday in April through October 31 season. Juveniles only. Anti-snagging rule and night closure August 1 through October 31. Trout: No minimum length.

Whatcom, Lake (Whatcom County): (~~Last~~) Fourth Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters: Trout: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

Wheeler Creek (Klickitat County): Trout: Release all trout.

White Creek (Skagit County) (Sauk River tributary): First Saturday in June through October 31 season. All species: Selective gear rules and release all fish.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: October 1 through (~~last day in February~~) January 15 season: October 1 through October 31 all species: Fly fishing only and release all fish. November 1 through (~~last day in February~~) January 15: Selective gear rules. Trout: Minimum length fourteen inches. Anti-snagging rule and night closure October 1 through November 30.

From R Street Bridge to Highway 410 Bridge at Buckley: October 1 through October 31 season. Closed waters: Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin. Anti-snagging rule and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: July 1 through October 31 season. Anti-snagging rule and night closure October 1 through October 31. Selective gear rules and unlawful to fish from a floating device equipped with an internal combustion motor July 1 through October 31. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through January 31 season. Whitefish gear rules apply.

Whitechuck River (Snohomish County): First Saturday in June through October 31 season. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Bank fishing only downstream from the Highway 14 Bridge. August 1 through December 31: Anti-snagging rule. Year-round season, except game fish other than steelhead closed April 1 through July 31. Trout: Minimum length fourteen inches. Salmon and steelhead: Open April 1 through July 31, daily limit 2 salmon or 2 hatchery steelhead or one of each. Release wild Chinook. Salmon: Open August 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon except from the mouth to the Hwy. 14 Bridge the daily limit follows the most liberal regulations of the adjacent mainstem Columbia or White Salmon rivers when both areas are open concurrently for salmon. Release wild coho and wild Chinook.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to April 30 season, except salmon and steelhead, and trout closed April 1 through April 30. Trout: Minimum length fourteen inches. Salmon: Open



November 16 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho and wild Chinook. Salmon and steelhead: Open April 1 through June 15, daily limit two salmon or two hatchery steelhead or one of each. Release wild Chinook.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches.

Wide Hollow Creek (Yakima County): Juveniles only.

Widgeon Lake (Grant County): April 1 through September 30 season.

Wildberry Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Wilderness Lake (King County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Wilkeson Creek (Pierce County) (South Prairie Creek tributary) upstream of confluence with Gale Creek: First Saturday in June through October 31 season.

~~((Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Daily limit two, minimum length fifteen inches.))~~

Willapa River (Pacific County): ~~((Mouth))~~ All species: Unlawful to fish from a floating device equipped with an internal combustion motor from second bridge on Camp One Road upstream to the mouth of Mill Creek (approximately 0.5 miles) from August 1 through November 30.

From mouth (city of South Bend boat launch) to Highway 6 Bridge approximately two miles below mouth of Trap Creek: The first Saturday in June through ((March 31)) last day of February season. All species: Night closure, single barbless hooks required from August 16 through November 30. Stationary gear restriction from August 1 through November 30, except from the mouth of the Willapa River to the WDFW access site at the mouth of Ward/Wilson creek. All game fish: Release all game fish except that up to 2 hatchery steelhead may be retained per day. ((August 1 through November 30 fishing from a floating device prohibited from second bridge on Camp One Road upstream approximately 0.5 miles to mouth of Mill Creek. All species: August 16 through November 30 night closure and single point barbless hooks required. August 16 through November 30 above the WDFW access at the mouth of Ward/Wilson Creek stationary gear restriction.))

From Highway 6 Bridge to Fork Creek: The first Saturday in June through July 15 and October 16 through ((March 31)) last day in February seasons. All species: Night closure, single point barbless hooks, and stationary gear restriction October 16 through November 30. All game fish: Release all

fish except that up to 2 hatchery steelhead may be retained. Salmon: Open August 1 through January 31 from mouth to Highway 6 Bridge approximately 2 miles below mouth of Trap Creek and open October 16 through January 31 from Highway 6 Bridge to Fork Creek. Daily limit 6 fish, of which no more than 3 may be adult salmon. Release chum, wild coho, and wild Chinook.

Sturgeon: Open year-round from mouth to Highway 6 Bridge.

~~((Upstream))~~ From Fork Creek upstream: The first Saturday in June through October 31 season. All species: Night closure and anti-snagging rule from August 16 through October 31. All game fish: Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. ((August 16 through October 31, anti-snagging rule and night closure. All species.)) Release all fish except up to 2 hatchery steelhead per day may be retained.

Willapa River, South Fork (Pacific County): Closed waters from falls/fish ladder downstream 400 feet in Section 6, Township 13 North, and Range 8 West.

~~From mouth to bridge on Pehl Road ((and from Pehl Road Bridge upstream: The first Saturday in June through last day in February season. Selective gear rules and)). All species: Night closure and anti-snagging rule from August 1 through November 30. Selective gear rules first Saturday in June through October 31. Unlawful to fish from a floating device equipped with an internal combustion motor ((the first Saturday in June through October 31. Anti-snagging rule and night closure August 16 through November 30 from mouth to Pehl Road Bridge. Closed waters: From falls/fish ladder in Sec. 6, T13N, R8W, downstream 400 feet. All species.))~~ All game fish: First Saturday in June through last day in February season. Release all fish except up to 2 hatchery steelhead may be retained. Salmon: Open only August 1 through January 31 from mouth to Pehl Road Bridge. Daily limit 6 fish, of which no more than 3 may be adult salmon. Release chum, wild Chinook and wild coho.

From Pehl Road upstream: All species: Selective gear rules from first Saturday in June through October 31. Night closure and anti-snagging rule from August 1 through November 30. Unlawful to fish from a floating device equipped with an internal combustion motor. All game fish: First Saturday in June through last day in February season. Release all game fish except that up to 2 hatchery steelhead may be retained per day.

~~Williams Creek (Pacific County)((: The first Saturday in June through last day in February season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish except up to two hatchery steelhead per day may be retained.))~~ (Nemah River North Fork tributary): First Saturday in June through October 15 season. Trout: Minimum length eight inches and daily limit two fish. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Williams Lake (Lewis County): Fourth Saturday in April through October 31 season. Selective gear rules. Unlawful to fish from a floating device equipped with an internal com-

bustion motor. Trout: Daily limit two, minimum length fifteen inches.

Williams Lake (Spokane County): ~~((Last))~~ Fourth Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season. All species: Catch and release except up to five rainbow trout may be retained.

Wilson Creek (Pacific County) (Willapa River tributary): All game fish: First Saturday in June through October 31 season. Selective gear rules.

Wilson Creek, North Fork (Pacific County): All game fish: First Saturday in June through October 31 season. Selective gear rules.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Juveniles only.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: July 1 through March 15 season, except salmon and steelhead. Trout: Minimum length fourteen inches. Night closure March 16 through June 30. May 1 through June 30: Anti-snagging rule from Burlington Northern Railroad Bridge upstream. August 1 through October 31: Anti-snagging rule. When anti-snagging rule is in effect, only fish hooked in the mouth may be retained. Salmon and steelhead: Open March 16 through June 30 daily limit 2 salmon or 2 hatchery steelhead or one of each. Release wild Chinook. Salmon: Open August 1 through October 31. Daily limit 6 fish of which no more than 2 may be adult salmon except from the mouth to the Hwy. 14 Bridge the daily limit follows the most liberal regulations of the adjacent mainstem Columbia or Wind rivers when both areas are open concurrently for salmon. Release wild coho and wild Chinook.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source, including all tributaries: Closed waters: From 400 feet below to 100 feet above the Coffey Dam ~~((and))~~. Closed waters from a boundary marker approximately 800 yards downstream from Carson National Fish Hatchery upstream, including all tributaries December 1 through September 15. Closed waters: From the Moore Bridge on the Wind River Highway approximately one mile north of the Carson National Fish Hatchery upstream including all tributaries September 16 through November 30. May 1 through June 30: Anti-snagging rule and night closure. When anti-snagging rule is in effect, only fish hooked in the mouth may be retained. September 16 through November 30 season, except salmon. Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. All species: Release all fish. Salmon and additional steelhead season: Open May 1 through June 30. Daily limit 2 salmon or 2 hatchery steelhead or one of each.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Unlawful to fish from a floating device

equipped with an internal combustion motor. Trout: Minimum length ten inches.

~~Wishkah River (Grays Harbor County)((, including all forks: Closed waters: From weir at Wishkah Rearing Ponds, downstream 200 feet. Trout: Minimum length fourteen inches. Mouth to mouth of the West Fork)): All Species: Single point barbless hooks required August 16 through November 30.~~

From mouth to West Fork: First Saturday in June through last day in February season. Trout: Minimum length fourteen inches.

From mouth of West Fork to 200 feet below the weir at the Wishkah Rearing Ponds: The first Saturday in June through ((March 31)) the last day in February season. ((Single point barbless hooks required August 16 through November 30. Selective gear rules, unlawful to fish from floating device equipped with an internal combustion motor, and all species: Release all fish, except up to 2 hatchery steelhead may be retained per day, March 1 through March 31. Salmon: Open October 1 through January 31. October 1 through November 30, daily limit 6 fish, of which no more than 2 may be adult salmon, and of the 2 adult salmon, only one may be a wild coho. Release chum and Chinook. December 1 through January 31, daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.

~~From the confluence of the West Fork to two hundred feet below the weir at the Wishkah Rearing Ponds: The first Saturday in June through March 31 season. All species: March 1 through March 31, release all fish, except up to 2 hatchery steelhead may be retained per day, and selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Salmon: Open October 1 through December 31. Daily limit 6 fish, of which no more than 2 may be adult salmon. Release chum, Chinook, and wild coho.)) Trout: Minimum length fourteen inches.~~

From 200 feet below to the weir at the Wishkah Rearing Ponds: Closed waters.

From weir upstream: The first Saturday in June through the last day in October season. All species: Selective gear rules.

Wishkah River, East and West forks (Grays Harbor County): All Species: Single point barbless hooks required August 16 through November 30.

From mouth to 400 feet below outlet of Lake Aberdeen Hatchery: First Saturday in June through the last day in February season. All species: Selective gear rules.

Wolf Creek, mouth to mouth of south fork (Okanogan County): Closed waters.

Woodard Creek (Thurston County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length 14 inches.

Wood Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Woodland Creek (Thurston County): First Saturday in June through October 31 season. Selective gear rules. Trout: Minimum length fourteen inches.

Woods Creek (Snohomish County) (Skykomish River tributary) East Fork and its tributaries, including beaver ponds upstream of Old Pipeline Road (above Woods Creek Falls): First Saturday in June through October 31 season.

Wooten Lake (Mason County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Wye Lake (Kitsap County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Trout: Daily limit 5, no more than two over 14 inches in length may be retained, except no size restriction for kokanee.

Wynoochee River (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to 7400 line bridge above mouth of Schafer Creek: The first Saturday in June through March 31 season. Single point barbless hooks required August 16 through November 30. All species: Bait prohibited September 16 through October 31.

From 7400 line bridge upstream: Additional December 1 through March 31 season. Selective gear rules. ~~((Fishing from a floating device prohibited. All species: Release all fish except up to two hatchery steelhead may be retained per day-))~~ All species: Release all fish except up to two hatchery steelhead may be retained per day.

Wynoochee Reservoir (Grays Harbor County): The first Saturday in June through October 31 season. Trout: Daily limit two, minimum length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries. Channel catfish: No daily limit.

From mouth to 400 feet below Prosser Dam: March 1 through October 22 season. Closed waters: From the WDFW white markers 200 feet downstream of the USBR Chandler Powerhouse/Pumping Station spillway chute to the power-line crossing immediately upstream of the powerhouse September 1 through October 22. Chumming permitted. Trout: Release all trout. Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. All species: Anti-snagging rule and night closure September 1 through October 22.

From Prosser Dam to Highway 223 Bridge: May 1 through October 31 season. Trout: Release all trout.

From mouth to Highway 223 Bridge: Bass: Bass 12 to 17 inches in length may be retained. No daily limit for bass, but not more than 3 bass greater than 15 inches in length may be retained.

From Highway 223 Bridge to 400 feet below Sunnyside Dam: Trout: Minimum length twelve inches and maximum length twenty inches. Additional season December 1 through last day in February - Whitefish gear rules apply.

From Sunnyside Dam to thirty-five hundred feet below Roza Dam: Closed waters: From Yakima Avenue-Terrace Heights Bridge upstream 400 feet. All species: Selective gear rules. Unlawful to fish from a floating device equipped

with an internal combustion motor. Trout: Minimum length twelve inches and maximum length twenty inches. Additional season December 1 through last day in February - Whitefish gear rules apply.

From thirty-five hundred feet below Roza Dam to Roza Dam December 1 through last day in February season. Whitefish gear rules apply.

From Roza Dam to four hundred feet below Easton Dam and from Lake Easton to the base of Keechelus Dam: Year-round season. Fishing from floating devices equipped with motors allowed 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 one-half mile). Selective gear rules except bait and one single point barbed hook three-sixteenths or smaller point to shank may be used December 1 through last day in February. Unlawful to fish from a floating device equipped with an internal combustion motor December 1 through the last day of February. Trout: From Roza Dam to 400 feet below Easton Dam: Release all trout. Lake Easton to the base of Keechelus Dam: Release all trout except eastern brook trout. Eastern brook trout: No daily limit and no minimum size.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Landlocked salmon rules.

Yellowhawk Creek (Walla Walla County): Closed waters.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Unlawful to fish from a floating device equipped with an internal combustion motor. Trout: Minimum length twelve inches.

Yocum Lake (Pend Oreille County): ~~((Last))~~ Fourth Saturday in April through October 31 season. Unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

Youngs Creek (Snohomish County) (Skykomish River tributary) and its tributaries, including beaver ponds above the Potson Road/299th Avenue SE Bridge (Elwell Creek tributary, Skykomish River tributary near town of Sultan): First Saturday in June through October 31 season.

## WSR 11-23-177

### PROPOSED RULES

### DEPARTMENT OF FISH AND WILDLIFE

[Filed November 23, 2011, 9:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-011 on September 22, 2011.

Title of Rule and Other Identifying Information: WAC 220-52-050 Ocean pink shrimp trawl fishery—Coastal waters.

Hearing Location(s): Washington Department of Fish and Wildlife, Region 6 Office, 48 Devonshire Road, Montesano, WA 98563, on Thursday, January 12, 2012, at 10 a.m.

Date of Intended Adoption: January 24, 2012.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Lori.Preuss@dfw.wa.gov, fax (360) 902-2155, by December 27, 2011.

Assistance for Persons with Disabilities: Contact Tami Lininger by December 27, 2011, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to update gear rules in the ocean pink shrimp trawl fishery, to reduce by-catch. The proposed gear modifications include prohibiting the use of "soft-panel" excluders (also known as biological reduction devices) and reducing the bar spacing allowed on rigid panel excluders from a maximum of two inches to a maximum of three-quarters inches.

Reasons Supporting Proposal: The coastal pink shrimp trawl fishery catches Pacific eulachon smelt (*Thaleichthys pacificus*) as by-catch. In 2010, the National Marine Fisheries Service listed eulachon smelt as a threatened species under the Endangered Species Act (ESA). The proposed rule changes will reduce the catch of this ESA listed species in the pink shrimp trawl fishery while maintaining the opportunity to continue to fish for pink shrimp.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, 77.12.047.

Statute Being Implemented: RCW 77.04.020, 77.12.-045, 77.12.047.

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

Name of Proponent: The Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lorna Wargo, 1111 Washington Street S.E., Olympia, WA 98504, (360) 249-4628; and Enforcement: Chief Bruce Bjork, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

### 1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule:

This rule will require holders of Washington coastal pink shrimp trawl licenses that wish to fish for or possess pink shrimp with trawl gear to utilize a biological reduction device (reduction device; BRD) or finfish excluder that meets specific criteria. These criteria are intended to address conservation concerns by reducing the amount of by-catch.

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply With Such Requirements:** Fishers will need to acquire finfish excluders from manufacturers.

**3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** The rule changes proposed carry compliance costs for some fishers due to new gear require-

ments. Not all fishers will be affected since some voluntarily purchased equipment (reduction device or excluder) that meets the new criteria in advance of the rule change. Businesses are familiar with excluders/reduction devices as some variation of this type of equipment has been mandatory for over a decade.

The rule would impose gear restrictions by reducing the types of allowed reduction devices through the elimination of "soft-panel" excluders, and by decreasing the maximum bar spacing in rigid panel reduction devices from two inches between panel bars to 3/4 inches.

The estimated cost of compliance with these requirements is approximately \$1000 per trawl net or \$2000 per vessel since most are rigged with two nets. This estimate includes the purchase price of a rigid panel excluder, its preparation for installation and labor costs associated with installation in the trawl nets.

**4. Will Compliance With the Rule Cause Businesses to Lose Sales or Revenue?** Compliance with the new gear requirements, specifically, the narrower bar spacing on rigid panel grates, could potentially lead to reduced catch of pink shrimp when pink shrimp volumes are strong, i.e. when fishers are towing through particularly dense schools. However, for conservation purposes the proposed rules are necessary. In 2010, the National Marine Fisheries Service listed Pacific eulachon as a threatened species under the ESA. The coastal shrimp trawl fishery was deemed a moderate threat to recovery of this species. The proposed gear modifications are intended to reduce by-catch in the coastal shrimp trawl fishery while preserving the opportunity to continue harvesting pink shrimp.

**5. Cost of Compliance for Small Businesses Compared With the Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:**

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

The only metric available to the department for identifying the largest ten percent of businesses, or for use in a cost comparison for small and large businesses, is the ex vessel value of pink shrimp sold by each pink shrimp commercial license holder in recent years. This ex vessel value is used as a surrogate for sales in this analysis, but it is an underestimate of total sales, since the majority of the businesses affected have additional revenue from other fisheries and related ventures. In addition, this analysis assumes that all license holders will be required to purchase equipment described above in (3). Many of license holders already own gear that meets the requirements, and will not be required to purchase new gear. Other licenses are not actively fished. These two factors combined mean that the cost of compliance per one hundred dollars of sales will be overestimated for small and large businesses. Also note that each individual license was treated as a business for this analysis, although some businesses own more than one license.

The number of coastal pink shrimp trawl licenses issued in 2010 and 2011 was eighty-three and eighty-two, respectively. Of these, the number of active licenses - those with

any amount of landings or sales of pink shrimp - was twenty and fourteen in 2010 and 2011, respectively. For the ten percent of licenses with the highest ex vessel sales values for 2009 and 2010 combined, the average ex vessel value per year was \$623,830. This means that the cost of compliance per \$100 of ex vessel value would be \$0.32. Most businesses affected by these rules qualify as small businesses, so an average cost of compliance for all businesses was calculated for comparison. The average ex vessel value per year for all actively fished licenses for 2009 and 2010 was \$216,938, meaning the average cost of compliance would be \$0.92 per \$100 of ex vessel value.

**6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So:** Most businesses affected by these rules are small businesses. The department is only seeking to modify the rules as necessary to meet conservation needs.

**7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** WDFW routinely has interacted with and received input from affected businesses through annual meetings. In addition, a meeting to address this specific rule proposal will be held.

**8. A List of Industries That Will Be Required to Comply with the Rule:** All licensed fishers wishing to harvest or possess pink shrimp taken with trawl gear in the all-citizen coastal pink shrimp fishery will be required to comply with these rules.

**9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule:** Compliance with the rules will not result in the creation or loss of jobs.

A copy of the statement may be obtained by contacting Lorna Wargo, Washington Department of Fish and Wildlife, Region 6 Office, 48 Devonshire Road, Montesano, WA 98563, phone (360) 249-4628, fax (360) 249-1229, e-mail Lorna.Wargo@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not involve hydraulics.

November 23, 2011

Lori Preuss

Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-05-059, filed 2/11/10, effective 3/14/10)

**WAC 220-52-050 Ocean pink shrimp trawl fishery—Coastal waters.** It is unlawful to fish for, possess or deliver ocean pink shrimp taken for commercial purposes from the waters of the Exclusive Economic Zone, except as provided for in this section:

**Area**

(1) It is unlawful to fish for ocean pink shrimp within the territorial boundaries of the state. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

**Season**

(2) It is unlawful to fish for, take, or possess on board a fishing vessel, pink shrimp, except during the following time:

The open season for trawl gear is April 1 through October 31 of each year. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

**Gear**

~~(3) ((It is unlawful to fish with or possess pink shrimp taken with shrimp trawl gear having a net mesh size greater than two inches in the intermediate or codend, except for net mesh used in by-catch reduction devices defined under subsection (4) of this section. However, it is lawful to have net mesh larger than two inches in the wings or body of the trawl.~~

~~(4)) It is unlawful to fish with trawl gear for pink shrimp for commercial purposes unless an approved by-catch reduction device is used in each net. A by-catch reduction device, also known as a finfish excluder, uses a rigid panel or grate of narrowly spaced bars to guide fish out of an escape hole forward of the panel, generally in the top of the net. An approved by-catch reduction device((s-include)) must meet the following criteria:~~

~~(a) ((A Soft Panel By-catch Reduction Device, which uses a mesh panel to guide fish out of an escape hole. An approved soft panel must meet the following criteria:~~

~~(i) The panel must completely cover some portion of the net in cross-section, meaning it must extend completely across the full opening of the net in one continuous piece. The panel must be securely fastened to the net around the entire perimeter, such that a 110 mm diameter sphere cannot pass beyond the panel into the terminal end of the codend;~~

~~(ii) The panel meshes must be constructed of netting material with individual meshes no larger than 5.5 inches, measured between opposing knots, and must be constructed of a single panel of continuous netting, without zippers or other devices designed to allow disabling of the panel such that large fish can pass back into the codend;~~

~~(iii) The escape hole must, when spread open, expose a hole of at least 100 square inches; and~~

~~(iv) The escape hole must be forward of the mesh panel and must begin within four meshes of the furthest aft point of attachment of the mesh panel to the net.~~

~~(b) A Nordmore Grate By-catch Reduction Device, which uses a rigid panel of narrowly spaced vertical bars to guide fish out of an escape hole in front of the panel, generally in the top of the net. An approved Nordmore grate must meet the following criteria:~~

~~(i)) The exterior circumference of the rigid panel must fit completely within the interior circumference of the trawl net, such that there is no space between the panel and the net that will allow a 110 mm sphere to pass beyond the panel, into the terminal area of the codend;~~

~~((ii)) (b) None of the openings between the ((vertical)) bars in the rigid panel may exceed ((two)) 0.75 inches ((# width));~~

~~((iii)) (c) The escape hole must, when spread open, expose a hole of at least 100 square inches; and~~

~~((iv)) (d) The escape hole must be forward of the rigid panel and must begin within four meshes of the furthest aft point of attachment of the rigid panel to the net.~~

~~((5) It is unlawful to remove trawl gear from the vessel prior to offloading of shrimp.~~

~~(6))~~ (4) It is unlawful to modify by-catch reduction devices in any way that interferes with their ability to allow fish to escape from the trawl, except ~~((for the purpose of testing the by-catch reduction device to measure shrimp loss. Authorized))~~ as provided by special gear permit as described in subsection (5) of this section.

(5) Testing of by-catch reduction devices ~~((must meet the following criteria:~~

~~(a) Testing))~~ is allowed by special gear permit only, consistent with the terms and conditions of the permit ~~((; and~~

~~(b) For vessels fishing two nets simultaneously (double-rigged boats), only one net may contain a disabled by-catch reduction device, and the other net must be fishing a fully functional by-catch reduction device as described in subsection (4) of this section)).~~

(6) It is unlawful to remove trawl gear from the vessel prior to offloading of shrimp.

(7) A violation of subsections ~~((4))~~ (3) through (6) of this section is punishable under RCW 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty.

(8) It is unlawful to land or deliver pink shrimp to an original receiver that exceeds the following count per pound restriction: The count per pound must average no more than 160 shrimp per pound for a minimum of two samples, increasing at a rate of one sample per one thousand pounds landed or in possession, up to a maximum requirement of twenty samples. Such samples shall consist of at least one pound each of whole, unbroken shrimp taken at random from throughout the individual load landed or in possession. This landing restriction shall apply only to loads of 3,000 pounds of shrimp or more. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

#### Incidental catch

(9) It is unlawful to take salmon incidental to any shrimp trawl fishery.

(10) It is unlawful to retain any bottomfish species taken incidental to any shrimp trawl fishery, except as provided for in WAC 220-44-050.

(11) It is unlawful to retain any species of shellfish, except that it is permissible to:

(a) Retain up to 50 pounds round weight of other shrimp species taken incidentally in the ocean pink shrimp fishery; and

(b) Retain octopus or squid.

(12) A violation of subsections (9) through (11) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

#### License

(13) An ocean pink shrimp delivery license is required to operate the gear provided for in this section, and it allows the operator to retain shrimp taken in the waters of the Exclusive Economic Zone.

A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license—Penalty.

#### Permit

(14) It is unlawful to fish for, retain, land, or deliver shrimp taken with trawl gear without a valid shrimp trawl fishery permit.

(15) It is unlawful to take, retain, land, or deliver any shrimp or groundfish taken with trawl gear without complying with all provisions of a shrimp trawl fishery permit.

(16) A violation of subsection (14) or (15) of this section is punishable under RCW 77.15.750.

#### WSR 11-23-179

#### PROPOSED RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Filed November 23, 2011, 10:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-20-111 on October 5, 2011.

Title of Rule and Other Identifying Information: Amend WAC 232-28-294 Multi-season big game permits.

Hearing Location(s): Natural Resources Building, Conference Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on January 6-7, 2012, at 8:30 a.m.

Date of Intended Adoption: On or after February 3, 2012.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by December 13, 2011.

Assistance for Persons with Disabilities: Contact Tami Lininger by January 3, 2012, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal updates the rules regarding multi-season big game permits by allowing additional hunters to purchase a permit.

Reasons Supporting Proposal: Expands opportunity for deer and elk hunters.

Statutory Authority for Adoption: RCW 77.12.047, 77.32.450, and 77.32.370.

Statute Being Implemented: RCW 77.12.047, 77.32.-450, and 77.32.370.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Nate Pamplin, Natural Resources Building, Olympia, (360) 902-2693; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not directly regulate small business.

A cost-benefit analysis is not required under RCW 34.05.328. These are not hydraulic rules.

November 23, 2011  
Lori Preuss  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 10-313, filed 12/6/10, effective 1/6/11)

**WAC 232-28-294 Multiple season big game permits.** The commission may, by rule, offer permits for hunters to hunt deer or elk during more than one general season.

An annual drawing will be conducted by the department for multiple season permits.

(1) Multiple season big game hunting permit applications:

(a) To apply for multiple season big game hunting season permits for deer or elk, applicants must purchase a permit application.

(b) No refunds or exchanges for applications will be made for persons applying for multiple season big game

hunting season permits after the application has been submitted.

(c) An applicant may purchase only one application for a multiple season big game hunting season permit for each species.

(d) Permits will be randomly drawn by computer selection.

(e) Incomplete applications will not be accepted.

(f) The department will establish application and drawing dates.

(2) The bag limit for this permit is one deer or elk.

(3) Multiple season permits:

(a) Hunters who are drawn will be required to purchase their original deer or elk license, corresponding to their permit, and the multiple season big game permit.

(b) Successful applicants will be allowed to purchase their permit at any time prior to September 1st.

(c) The permits are not transferable.

(4) Permit holders are required to follow all rules and restrictions for general season hunters within the game management unit or area hunted.

Number of Permits	Dates	Game Management Units (GMUs)	Legal Animal	Eligible Hunters
<b>Multiple Season Deer Permits</b>				
<del>(4000)</del> <u>8500</u>	Sept. 1 - December 31 within general seasons and regulations established by the commission for deer	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal deer consistent with the game management unit or area restrictions	Any licensed deer hunter
50	Sept. 1 - December 31 within general seasons and regulations established by the commission for deer	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal deer consistent with the game management unit or area restrictions	Hunter education instructors meeting qualifications and selection criteria established by the department
<b>Multiple Season Elk Permits</b>				
<del>(850)</del> <u>1000</u>	Sept. 1 - December 31 within general seasons and regulations established by the commission for elk	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal elk consistent with the game management unit or area restrictions	Any licensed elk hunter
25	Sept. 1 - December 31 within general seasons and regulations established by the commission for elk	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal elk consistent with the game management unit or area restrictions	Hunter education instructors meeting qualifications and selection criteria established by the department

**WSR 11-23-180**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed November 23, 2011, 10:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-18-029.

Title of Rule and Other Identifying Information: WAC 308-300-160 Business licensing service—Total fee payable—Handling of fees, this rule establishes the amount of

the application and renewal handling fees charged by the business licensing service (BLS) program.

Hearing Location(s): Capital Plaza Building, 4th Floor Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on Friday, January 6, 2012, at 10:00 a.m.

Date of Intended Adoption: January 13, 2012.

Submit Written Comments to: Marilou Rickert, e-mail marilour@dor.wa.gov, P.O. Box 47453, Olympia, WA 98504-7453, by Friday, January 6, 2012.

Assistance for Persons with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499 or Renee Cosare, (360) 725-7514 no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 2017, chapter 298, Laws of 2011, transferred responsibility for the master license service program and its rules from the department of licensing to the department of revenue, effective July 1, 2011. This program is now referred to as the BLS.

The legislation requires that the application and renewal handling fees be established by rule. The department previously adopted an emergency rule to provide these fees. The department is now proposing to amend the permanent rule, and recodify the rule as WAC 458-20-10101. The fee amounts are the same as reflected in the emergency rule.

A copy of the draft rule is available for viewing on our web site at rules agenda.

Reasons Supporting Proposal: SHB 2017, chapter 298, Laws of 2011, transferred responsibility for this program to the department of revenue and requires that the application and renewal handling fees be established by rule.

Statutory Authority for Adoption: SHB 2017, chapter 298, Laws of 2011.

Statute Being Implemented: RCW 19.02.030 and 19.02.075.

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: Marilou Rickert, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1582; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1599; and Enforcement: Russ Brubaker, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1505.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose any new performance requirements or administrative burden on any small business not required by statute.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Marilou Rickert, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1582, e-mail marilour@dor.wa.gov.

November 23, 2011  
Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-13-039, filed 6/8/10, effective 7/9/10)

**WAC 308-300-160 Business licensing service—Total fee payable—Handling of fees.** (1) **Introduction.** Chapter 298, Laws of 2011, transferred responsibility for the master license service program (MLS) from the department of licensing to the department of revenue, effective July 1, 2011. This program is now referred to as the business licensing service (BLS).

Information about BLS is available on-line at <http://business.wa.gov/BLS>. If you are seeking in-person assistance, you may want to visit:

6500 Linderson Way S.W., Suite 102  
Tumwater, WA 98501  
8 a.m. to 5 p.m., Monday - Friday  
(except state holidays or temporary layoff days)

The department of licensing continues to issue, renew, and regulate professional licenses, see <http://dol.wa.gov/business/>.

**(2) What fee do I need to pay when applying for or renewing a license?** The fee payable will be the total amount of all individual license fees, late filing fees, other penalty fees, and handling fees, and may include additional fees charged to cover credit or debit card processing. Licensing fees vary depending on the license for which you are applying. Refer to <http://bls.dor.wa.gov/specialtylicenses.aspx> for information about licenses and license fee amounts.

**(3) What does the department do with these fees?** The department will distribute the fees received for individual licenses issued or renewed to the appropriate agencies on an established schedule.

**(4) When do I get my business license?** The ~~(master)~~ business license will not be issued until the full amount of the total fee payable is collected. When the fee payment received is less than the total fee payable, the department will bill the applicant for the balance.

**(5) Can I get a refund?** The ~~(master)~~ business license ~~(service)~~ application and renewal handling fees collected under RCW 19.02.075 are not refundable. When a license is denied or when an applicant withdraws an application, a refund of any other refundable portion of the total payment will be made in accordance with the applicable licensing laws.

**(6) What are the handling fees?** The business license application handling fee amounts are:

<u>Type of handling fee:</u>	<u>Fee amount:</u>
<u>Business license application filing</u>	<u>\$15.00</u>
<u>License renewal application filing</u>	<u>\$9.00</u>

NEW SECTION

The following section of the Washington Administrative Code is decodified as follows:

Old WAC Number	New WAC Number
308-300-160	458-20-10101



**WSR 11-23-181**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Financial Services Administration)  
 [Filed November 23, 2011, 11:16 a.m.]

The financial services administration requests the withdrawal of the proposed rule making filed as WSR 11-22-101 on November 2, 2011 (chapter 388-06 WAC). With the passage of Initiative 1163 on November 8, 2011, the proposed rule is no longer applicable.

Katherine I. Vasquez  
 Rules Coordinator

**WSR 11-23-182**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed November 23, 2011, 11:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-19-104 and 11-19-105 on September 21, 2011.

Title of Rule and Other Identifying Information: WAC 220-69-210 Definitions, 220-69-240 Duties of commercial purchasers and receivers, 220-69-246 Description of Washington state electronic fish receiving ticket, 220-69-250 Required information on nontreaty fish receiving tickets, 220-69-256 Required information on electronic fish receiving tickets, 220-69-260 Distribution of copies of nontreaty fish receiving tickets, and 220-69-274 Signatures.

Hearing Location(s): Washington Department of Fish and Wildlife (WDFW), Region 6 Office, 48 Devonshire Road, Montesano, WA 98563, on Thursday, January 12, 2012, at 10 a.m.

Date of Intended Adoption: January 24, 2012.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Lori.Preuss@dfw.wa.gov, fax (360) 902-2155, by December 27, 2011.

Assistance for Persons with Disabilities: Contact Tami Lininger by December 27, 2011, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Some of the changes to WAC 220-69-240 will restrict the amount of sardines and/or anchovy that can be *purchased* for purposes other than human consumption or bait. The restriction already applies to the amount of sardine and/or anchovy that can be *fished* for purposes other than human consumption or bait.

Other changes to WAC 220-69-240, and changes to the remaining sections in this rule making, are meant to complement the federal electronic fish accounting system mandated for the Washington groundfish trawl fishery.

Reasons Supporting Proposal: The changes relating to sardine and anchovy would apply restrictions consistently to both purchasers and fishers. Sardines and anchovy represent

two very important forage fish species that are essential to maintaining healthy marine ecosystems. The restrictions in this proposal will ensure that landed sardine and/or anchovy are put to the highest-value use.

Changes to the other WACs in this proposal will streamline the state process so that participants are not using paper and electronic fish accounting systems.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, 77.12.047.

Statute Being Implemented: RCW 77.04.020, 77.12.-045, 77.12.047.

Rule is necessary because of federal law, 50 C.F.R. 660.

Name of Proponent: The Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Deputy Chief Cenci/Lorna Wargo, 1111 Washington Street S.E., Olympia, WA 98504, (360) 249-4628; and Enforcement: Chief Bruce Bjork, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule:**

Portions of this rule change will apply specifically to *purchasers and receivers* of forage fish (sardine and anchovy). The restriction already applies to *fishers* of sardine and anchovy. To ensure the highest-value use of landed forage fish, fishers have been limited in the amount of such fish that they can sell for purposes other than bait or human consumption (i.e., reduced or rendered for pet food, fertilizer, fish meal, etc.).

Other portions of the proposed rule will apply to deliverers, purchasers, and receivers of bottomfish delivered into the state as part of the Pacific Fishery Management Council's groundfish individual fishing quota (IFQ) program. The changes proposed here are intended to integrate the state's reporting and record-keeping requirements with those required by federal regulation for the IFQ program.

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:** No professional services are required to comply with these rule changes. See the answer to #5 below for details.

**3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** There are no costs associated with complying with these rule changes. See the answer to #5 below for details.

**4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?** The proposed rule changes relating to forage fish could cause a loss of revenue if the value of the processed fish exceeds the value of the fish destined for human consumption or bait. Typically, low-quality fish not suitable for use as human food or bait is processed/reduced to fish meal or other products. The rule does not prohibit this action; it simply limits the amount, by weight, of fish that can be reduced.

The proposed rule changes relating to bottomfish are not expected to have any effect on sales or revenues.

**Cost of compliance for small businesses compared with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:**

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

The metrics to estimate potential lost revenue for businesses are not available to WDFW. There are no costs associated with complying with these rules. See the answer to #5 below for details.

**5. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So:** Small businesses are typically not engaged in the purchase of sardine or anchovy for reduction purposes, since these businesses lack the facilities, which are substantial, to process the product.

The bottomfish-focused rule changes are intended to reduce costs on deliverers, purchasers, and receivers by eliminating duplicative reporting requirements.

**6. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** WDFW will interact with and receive input from affected businesses during a comment period and public meeting on this rule making.

**7. A List of Industries That Will Be Required to Comply with the Rule:** Licensed dealers and purchasers of commercially caught sardine and anchovy, and deliverers, purchasers, and receivers of commercially caught bottomfish, will be required to comply with these rules.

**8. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule:** Compliance with these rules will not result in the creation or loss of jobs.

A copy of the statement may be obtained by contacting Lorna Wargo, WDFW, Region 6 Office, 48 Devonshire Road, Montesano, WA 98563, phone (360) 249-4628, fax (360) 249-1229, e-mail Lorna.Wargo@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not involve hydraulics.

November 23, 2011

Lori Preuss  
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-210 Definitions.** The following definitions apply to this chapter:

(1) "Broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together. A broker is not required to have a wholesale fish dealer's license if the fish or shellfish only transit the state of Washington, and no storage, handling, processing, or repackaging occurs within the state.

(2) A broker who takes physical possession of fish or shellfish is an original receiver(;) and is required to com-

plete a fish receiving ticket. A broker acting strictly as an intermediary is not required to complete a fish receiving ticket for fish or shellfish that are delivered to an original receiver in the state of Washington. A broker is required to complete a fish receiving ticket for brokering an interstate or foreign sale from a Washington fisher who is not a holder of a direct retail endorsement, or a sale of fish or shellfish (~~which~~) that have entered the state from another state, territory, or country, if the fish or shellfish are placed into interstate or foreign commerce without having been delivered to an original receiver in the state of Washington.

~~((2))~~ (3) "Buyer" means a person who receives fish or shellfish(;) and who is required to complete a fish receiving ticket. A wholesale fish dealer or a retail seller who directly receives fish or shellfish from a commercial fisher or receives fish or shellfish in interstate or foreign commerce is acting in the capacity of a buyer and is required to complete a fish receiving ticket. A buyer who is acting as an agent for a wholesale fish dealer is required to have a fish buyer's license.

~~((3))~~ (4) "Department" means: The Washington Department of Fish and Wildlife, Information Systems, 600 Capitol Way North, Olympia, Washington 98501-1091.

~~((4))~~ (5) "Delivery" means arrival at a place or port(;) and includes arrivals from offshore waters to waters within the state, arrivals ashore from state or offshore waters, and arrivals within the state from interstate or foreign commerce.

~~((5))~~ (6) "Electronic fish receiving ticket" means the groundfish catch reporting system described in 50 C.F.R. § 660.113 (b)(4)(ii) that is used to submit harvest and fishing information to the department and the National Marine Fisheries Service.

(7) "Fish" means food fish classified under WAC 220-12-010 and game fish taken by treaty fishers and sold commercially.

~~((6))~~ (8) "Fisher" means a Washington-licensed commercial fisher or holder of a delivery permit.

~~((7))~~ (9) "Fresh" means unprocessed and unfrozen, regardless of whether the fish or shellfish are in the round, cleaned, or packaged for retail sale.

~~((8))~~ (10) "Frozen" means completely frozen through-out. Flash frozen and surface glaze frozen fish and shellfish are unfrozen fish and shellfish.

~~((9))~~ (11) "Nontreaty" means all entities not qualified by definition as "treaty."

~~((10))~~ (12) "Original receiver" or "receiver" means the first person in possession of fish or shellfish in the state of Washington who is acting in the capacity of a buyer. A fisher who is not the holder of a direct retail endorsement and who sells fish or shellfish to anyone other than a dealer, or a fisher who delivers fish or shellfish and places the fish or shellfish into interstate or foreign commerce, is the original receiver of the fish or shellfish. A cold storage facility that holds fish or shellfish for a fisher is not an original receiver, provided that the facility does not process, package, or otherwise handle the fish or shellfish. A person transporting fish or shellfish on behalf of a fisher, and who is in possession of an accurately completed commercial food fish and shellfish transportation ticket, is not an original receiver, provided that the fish or

shellfish are transported only to a cold storage facility or to a buyer.

~~((11))~~ (13) "Processed" means preparing and preserving~~(-ing)~~ and requires a wholesale fish dealer's license. Preserving includes ~~((treated))~~ treating with heat, including smoking and kippering. Cooked crab ~~((are))~~ is processed. Preserving also includes freezing fish and shellfish.

~~((12))~~ (14) "Shellfish" means shellfish classified under WAC 220-12-020.

~~((13))~~ (15) "Treaty" and "treaty Indian," for purposes of fish receiving tickets only, means persons who are members of federally recognized Indian tribes that are entitled to harvest fish or shellfish under the Makah, Medicine Creek, Nez Perce, Point Elliott, Point-No-Point, Quinault, Umatilla and Walla Walla, and Yakima treaties, or persons who are members of federally recognized treaty tribes whose reservations are located within Washington state and who harvest fish or shellfish within their tribe's reservation.

~~((14))~~ (16) "Wholesale fish dealer" or "dealer" means a person who acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter~~s~~, or exchanges or attempts to sell, barter~~s~~, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce. A wholesale fish dealer is required to be licensed. A fisher who is not a holder of a direct retail endorsement and sells fish or shellfish to anyone other than a wholesale fish dealer is required to have a wholesale dealer's license. A retail seller who receives fish or shellfish in interstate or foreign commerce from a person who is not a wholesale fish dealer is required to have a wholesale fish dealer's license.

~~((15))~~ (17) "Working day" means Monday through Friday, exclusive of a Washington state or federal holiday.

AMENDATORY SECTION (Amending Order 10-33, filed 3/2/10, effective 4/2/10)

**WAC 220-69-240 Duties of commercial purchasers and receivers.** (1) It is unlawful for any person originally receiving fresh or iced fish or shellfish or frozen fish or shellfish that have not been previously delivered in another state, territory, or country, except purchases or receipts made by individuals or consumers at retail, to fail to:

(a) Be a licensed wholesale fish dealer or fish buyer~~(-ing)~~ and to fail to~~(-ing)~~; or

(b) Immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every purchase or receipt of such commodities. Each delivery must be recorded on a separate fish receiving ticket.

(2) This section does not apply to persons delivering or receiving fish taken under the Pacific Coast Groundfish Shore-side Individual Fishing Quota (IFO) Program (50 C.F.R. § 660.140) who are in compliance with the provisions of WAC 220-69-250(5) and who:

(a) Complete electronic fish receiving tickets prior to either processing fish or removing the fish from the delivery site; and

(b) Electronically submit the electronic fish receiving tickets to the National Marine Fisheries Service and the

department no later than twenty-four hours after the date the fish are received.

(c) Electronically submit any amendments made to the mandatory information required under WAC 220-69-256 after the initial submission required under (b) of this subsection.

(3) For purposes of this section, the term "completed" means that scale weights have been recorded for all delivered fish. The term "submitted" means that all mandatory information required under WAC 220-69-256 has been entered and timelines under subsection (2)(b) of this section have been met.

(4) Failure to be licensed under ~~((this))~~ subsection (1) of this section is punishable under RCW 77.15.620. Failure to properly prepare a fish receiving ticket is punishable under RCW 77.15.630.

~~((2))~~ (5) It is unlawful for any person originally receiving fresh or iced fish or shellfish previously delivered in another state, territory, or country, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every purchase or receipt of such commodities. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

~~((3))~~ (6) It is unlawful for any original receiver of ~~((crab or spot shrimp))~~ shellfish to fail to record all ~~((crab or spot shrimp))~~ shellfish aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish deemed to be unmarketable, discards, or weigh backs must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for such fish or shellfish. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

~~((4))~~ (7) Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its plant locations as declared on the license application, shall be authorized to initiate and sign fish receiving tickets on behalf of his or her employer. The business, firm, and/or licensed wholesale fish dealer who the buyers are operating under shall be responsible for the accuracy and legibility of all such documents initiated in its name.

~~((5))~~ (8) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. Should the delivery of the catch take more than one day, the date that the delivery is completed must be entered on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the current date on the fish receiving ticket. Violation of this subsection is punishable under RCW 77.15.630.

~~((6))~~ (9) Forage fish:

(a) It is unlawful for any person receiving forage fish to fail to report the forage fish on fish receiving tickets initiated and completed on the day the forage fish are delivered. Herring are also required to be reported on herring harvest logs. The harvested amount of forage fish must be entered upon the fish ticket when the forage fish are off-loaded from the

catcher vessel. An estimate of herring, candlefish, anchovy, or sardine caught but not sold due to mortality must be included on the fish ticket as "loss estimate."

~~(b) In the coastal sardine fishery, ((the amount of sardine, by weight, purchased for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait, must be included)) it is unlawful to purchase, per sardine fishery vessel, more than fifteen percent cumulative weight of sardines for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait during the sardine fishery season. Sardines purchased for these purposes must be included, by weight, on the fish ticket as "reduction."~~

~~(c) In any forage fish fishery, ((the amount of anchovy, by weight, purchased for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait,)) it is unlawful to purchase anchovy in excess of fifteen percent, by weight, of the total landing weight per vessel, for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products. Anchovy purchased for these purposes must be included, by weight, on the fish ticket as "reduction."~~

~~(d) Any violation ((of)) under this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.~~

~~((7)) (10) Geoduck: It is unlawful for any person receiving geoduck((s)), regardless of whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoduck((s)) from the harvesting vessel onto the shore. This fish receiving ticket shall accompany the harvested geoduck((s)) from the department of natural resources harvest tract to the point of delivery. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.~~

~~((8) Pacific whiting: It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the delivery. The exact weights of whiting, by grade, and all incidental species in the delivery must be entered on the fish receiving ticket within twenty-four hours of the landing. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.~~

~~((9)) (11) Puget Sound shrimp - Pot gear:~~

~~(a) It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by pot gear to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office by phone at 360-466-4345, extension 245, or by fax at 360-466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by phone at 1-360-796-4601, option 1, or by fax at 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on~~

which the previous week's shrimp were sold, plus the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area), and the species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.560)) 77.15.630.

~~((a)) (b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record ((either)) 23A-C, 23A-E, 23A-W, or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.~~

~~((b)) (c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.~~

~~((c)) (d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.~~

~~((d)) (e) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Areas 20B, 21A, and 22A, to fail to record ((either)) 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.~~

~~((10)) (12) Puget Sound shrimp - Trawl gear:~~

~~(a) It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the department the previous day's purchases by 10:00 a.m. the following morning.~~

~~(b) For harvest in Crustacean Management Region 1, reports must be made to the La Conner district office by phone at 360-466-4345, extension 245, or by fax at 360-466-0515.~~

~~(c) For harvest in Crustacean Management Region 3, reports must be made to the Point Whitney Shellfish Laboratory by phone at 1-360-796-4601, option 1, or by fax at 360-586-8408.~~

~~(d) All reports must specify the serial numbers of the fish receiving tickets on which the previous day's shrimp were sold, the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area, and the species listed on each ticket.~~

~~(e) Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.560)) 77.15.630.~~

~~((11)) (13) Puget Sound crab: It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by nontreaty fishers, from Puget Sound, to fail to report to the department the previous day's~~

purchases by 10:00 a.m. the following business day. Reports must be made to the Point Whitney Shellfish Laboratory by fax at 360-586-8408 or by phone at 1-866-859-8439, option 5, and must specify the dealer name; dealer phone number; date of delivery of crab to the original receiver; and the total number of pounds of crab caught by nontreaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. ~~((The fish receiving ticket reporting requirement of WAC 220-69-240 remains in effect.))~~ Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.560))~~ 77.15.630.

~~((12))~~ (14) Salmon and sturgeon:

(a) During any Puget Sound fishery opening that is designated as "quick reporting required," per WAC 220-47-001:

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location(;;); date of purchase(;;); each fish ticket number, including alpha, used on the purchasing date(;;); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Puget Sound reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be submitted via fax at 360-902-2949; via e-mail at [psfishtickets@dfw.wa.gov](mailto:psfishtickets@dfw.wa.gov); or via phone at 1-866-791-1279. In fisheries under Fraser Panel Control within Fraser Panel Area Waters (area defined under Art. XV, Annex II, Pacific Salmon Treaty 1985), other reporting requirements not listed in this subsection may be necessary under Subpart F of the International Fisheries Regulations, 50 C.F.R. Ch. III § 300.93.

(b) During any coastal troll fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a ~~((direct retail endorsement ()))~~DRE(~~(+)~~) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location(;;); date of purchase(;;); each fish ticket number, including alpha, used on the purchasing date(;;); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, coastal troll reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location.

Reports can be made via fax at 360-902-2949; via e-mail at [trollfishtickets@dfw.wa.gov](mailto:trollfishtickets@dfw.wa.gov); or via phone at 1-866-791-1279.

(c) During any Grays Harbor or Willapa Bay fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a ~~((direct retail endorsement ()))~~DRE(~~(+)~~) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location(;;); date of purchase(;;); each fish ticket number, including alpha, used on the purchasing date(;;); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Grays Harbor and Willapa Bay reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-664-0689; e-mail at [harborfishtickets@dfw.wa.gov](mailto:harborfishtickets@dfw.wa.gov); or phone at 1-866-791-1280.

(d) During any Columbia River fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon, or for a ~~((direct retail endorsement ()))~~DRE(~~(+)~~) holder to fail to report all salmon offered, for retail sale.

(ii) The report must include dealer or DRE holder name and purchasing location(;;); date of purchase(;;); each fish ticket number, including alpha, used on the purchasing date(;;); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Columbia River reports must be submitted within 5, 8, 12, or 24 hours of closure of the designated fishery. The time frame for submitting reports will be established by the department at the time of adoption of the quick reporting fishery. Adoption and communication of the quick reporting regulations for a given fishery will occur in conjunction with the adoption of said fishery through the Columbia River Compact. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-906-6776 or 360-906-6777; via e-mail at [crfishtickets@dfw.wa.gov](mailto:crfishtickets@dfw.wa.gov); or via phone at 1-866-791-1281.

(e) Faxing a copy of each fish receiving ticket used, within the previously indicated time frames specified per area, satisfies the reporting requirement.

(f) Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.560))~~ 77.15.630.

~~((13))~~ (15)(a) Sea urchins and sea cucumbers: It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day. For red sea urchins, the report must specify the number of pounds received from each sea urchin district. For green sea urchins and sea cucumbers, the report must specify the number of pounds received from each Marine Fish-Shellfish Management and Catch Reporting Area. For sea cucumbers, the report must specify whether the landings were "whole-live" or "split-drained." The report must be made by fax at 360-902-2943, or by toll-free telephone at 866-207-8223.

(b) It is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken, and it is unlawful for the original receiver of any sea urchins to fail to record on the fish receiving ticket the name of the port of landing where the sea urchins were landed ashore.

(c) It is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained."

(d) Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.560))~~ 77.15.630.

~~((14) Coastal spot shrimp: It is unlawful for any original receiver of spot shrimp taken from Marine Fish Management and Catch Reporting Area 60A-1 to fail to record separately on the fish receiving ticket spot shrimp taken north or south of 47°04.00' north latitude. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.))~~

#### NEW SECTION

**WAC 220-69-246 Description of Washington state electronic fish receiving ticket.** (1) There is hereby created a nontreaty electronic fish receiving ticket. Electronic forms are available to original receivers participating in the Pacific Coast Groundfish Shoreside Individual Fishing Quota (IFQ) Program. The electronic form shall contain space for the following information:

- (a) Fisherman: Name of licensed deliverer and department number assigned to licensed deliverer;
- (b) Address: Address of licensed deliverer;
- (c) Boat name: Name or Coast Guard number of landing vessel;
- (d) WDFW boat registration: Washington department of fish and wildlife boat registration number;
- (e) Gear: Code number or name of specific gear type used;
- (f) Fisherman's signature: Signature of licensed deliverer;
- (g) Date: Date of landing;
- (h) Dealer: Name of dealer and department number assigned to dealer;
- (i) Buyer: Name of buyer and department number assigned to buyer;
- (j) Receiver's signature: Signature of original receiver;
- (k) Number of days fished: Days spent catching fish;

(l) Catch area: Marine fish/shellfish management and catch reporting area code where the majority of the marine fish were caught or harvested;

(m) Species code: Department assigned species code;

(n) Individual numbers of fish species, if such fish are landed as part of an incidental catch allowance or catch ratio restriction that is expressed in numbers of fish rather than in pounds;

(o) The scale weight of all fish, to include fish with no value. However, if the department allows a species of fish to be dressed, and the fish is dressed as the department requires, such fish can be recorded in its original dressed weight and designated as dressed on the fish receiving ticket;

(p) Value of fish sold or purchased: Summary information for species, or species groups landed as described in (q) of this subsection;

(q) Description of species or species category: All species or categories of bottomfish having a vessel trip limit must be listed separately (see WAC 220-44-050), and all others must be described with the relevant category or species name issued by the department;

(r) Federal limited entry permit number granting authority for the delivery. Separate electronic fish receiving tickets are required for each federal sablefish endorsed limited entry permit number used in the delivery;

(s) All legally defined gear as defined in 50 C.F.R. 660, Subpart D, and WAC 220-44-030, aboard the vessel at the time of delivery;

(t) Total amount: Total value of landing;

(u) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use;

(v) Seized/overage: Species and pounds of fish or shellfish; and

(w) Work area for dealer's use: Used at dealer's discretion.

(2) The electronic fish receiving ticket shall be used exclusively for nontreaty deliveries of fish harvested by participants lawfully involved in the Pacific Coast Groundfish Shoreside IFQ Program described in 50 C.F.R. 660.140.

AMENDATORY SECTION (Amending Order 09-262, filed 12/23/09, effective 1/23/10)

**WAC 220-69-250 Required information on nontreaty fish receiving tickets.** (1) Except as provided in subsection (5) of this section, it is unlawful for a person required to complete a nontreaty fish receiving ticket to fail to enter the mandatory information referenced in WAC 220-69-230 (1)(a) through (m) and (p) through (x) on each nontreaty fish receiving ticket.

(2) A valid license card or duplicate license card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of the requirements in WAC 220-69-230 (1)(a) through (e), except as provided in WAC 220-69-273.

(3) A valid dealer or buyer card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of the requirements in WAC 220-69-230 (1)(h) and (i).

(4) During the period December 1 through December 30, the crab inspection certificate number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab from Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

(5) Persons selling or receiving deliveries of fish made under the Pacific Coast Groundfish Shoreside Individual Fishing Quota (IFQ) Program (50 C.F.R. § 660.140) may use the electronic fish ticket system described in 50 C.F.R. § 660.113 (b)(4)(ii) to enter mandatory information in lieu of completing a nontreaty fish receiving ticket, provided that the following conditions are met:

(a) All information required under WAC 220-69-256 has been entered on the electronic fish receiving ticket;

(b) Both the fisherman and original receiver have signed a legible, printed copy of the original electronic fish receiving ticket, plus all amended copies declaring the document and information contained therein as being true and accurate, and they have submitted such signed copies as prescribed in WAC 220-69-260; and

(c) A signed copy of the electronic fish receiving ticket and all amended copies are maintained by the original receiver at the place of business for a period of three years preceding the date of initiation.

(6) Violation of this section is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.

#### NEW SECTION

**WAC 220-69-256 Required information on electronic fish receiving tickets.** (1) It is unlawful for a person required to complete a report under WAC 220-69-240 to utilize an electronic fish receiving ticket in lieu of a paper fish receiving ticket unless the mandatory information contained in WAC 220-69-246 (1)(a) through (w) is entered on each electronic fish receiving ticket.

(2) For the purposes of this section, an electronic fish receiving ticket means the ticket defined in WAC 220-69-246.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-260 Distribution of copies of nontreaty fish receiving tickets.** (1) State of Washington nontreaty fish receiving tickets shall be made out in quadruplicate (four copies) at the time of delivery. Upon completion of the fish receiving ticket, it is unlawful for the person completing the fish receiving ticket to fail to distribute the copies as follows:

((H)) (a) The dealer copies (white and yellow) shall be retained by the receiver for ((their)) his or her use.

((Z)) (b) The state copy (green) shall be mailed to the department. It is required that the state copies be received by the department no later than the sixth working day after the day the ticket was completed by the original receiver.

((S)) (c) Fisher copy (gold) shall be retained by the deliverer for ((their)) his or her use.

((4)) (2) It is unlawful for an original receiver to fail to comply with the following provisions:

(a) A signed copy of all electronic fish receiving ticket submissions must be mailed to the department.

(b) The electronic fish receiving tickets must be received by the department no later than the sixth working day after the ticket was completed or amended by the original receiver.

(3) Violation of this section is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

**WAC 220-69-274 Signatures.** (1) It is unlawful for the deliverer or original receiver of nontreaty fish or shellfish to fail to sign the complete nontreaty fish receiving ticket((~~which signature shall be deemed certification of the correctness of~~)) to certify that all entries ((~~thereon. It is unlawful for the original receiver of nontreaty fish or shellfish to fail to sign the complete nontreaty fish receiving~~)) on the ticket are accurate and correct.

(2) It is unlawful for the deliverer of treaty fish or shellfish to fail to sign the tribal copy of the treaty Indian fish receiving ticket((~~which signature shall be deemed certification of the correctness of~~)) to certify that all entries on the ((~~complete fish receiving~~)) ticket are accurate and correct. It is unlawful for the original receiver of treaty food fish or shellfish to fail to sign the ((~~complete~~)) completed treaty Indian fish receiving ticket.

(3) It is unlawful for the deliverer or original receiver of fish caught under the Pacific Coast Groundfish Shoreside Individual Fishing Quota (IFQ) Program (50 C.F.R. § 660.140) to fail to print and sign a copy of the completed electronic fish receiving ticket to certify that all entries on the ticket are accurate and correct.

(a) A fisher who fails to sign a fish receiving ticket is in violation of RCW 77.15.560.

(b) An original receiver who fails to sign a fish receiving ticket is in violation of RCW ((77.15.640)) 77.15.630.

((S)) (4) Where the fisherman is unable to deliver the catch, an agent of the fisherman is authorized to sign the fish receiving ticket if the ((person)) agent has first obtained an ((~~additional~~)) alternate operator's license for the fishing vessel operated by the fisherman.

((4-Should)) (5) If the receiver receives the fish or shellfish by any method other than direct delivery, the receiver shall affix his or her signature to the fish receiving ticket, and the fish receiving ticket shall be completed and submitted without the deliverer's signature and together with the transportation ticket((~~and~~)). The receiver shall assume complete responsibility for the correctness of all entries on the fish receiving ticket.

**WSR 11-23-184**  
**PROPOSED RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed November 23, 2011, 11:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-017.

Title of Rule and Other Identifying Information: Chapter 363-11 WAC, Practice and procedure—Board of pilotage commissioners.

Hearing Location(s): 2901 Third Avenue, 5th Floor, Alki Conference Room, Seattle, WA 98121, on January 12, 2012, at 9:30 a.m.

Date of Intended Adoption: January 12, 2012.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail [larsonp@wsdot.wa.gov](mailto:larsonp@wsdot.wa.gov), fax (206) 515-3906, by January 5, 2012.

Assistance for Persons with Disabilities: Contact Shawna Erickson by January 9, 2012, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed revisions to chapter 363-11 WAC is to update the board's practices and procedures for administrative hearings so they are consistent with the Administrative Procedure Act, model rules of procedure (chapter 10-08 WAC), and chapter 363-116 WAC, and the civil rules of Washington.

The proposed changes are also intended to modify the scope of hearings and associated discovery currently permitted under chapter 363-11 WAC.

Housekeeping revisions will also be made as necessary.

Reasons Supporting Proposal: To update and bring this WAC chapter in alignment with other rules and procedures under which the board operates.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

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

Name of Proponent: Board of pilotage commissioners, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The application of the proposed rule is clear in the description of the proposal and its anticipated effects as well as the proposed language shown below.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

November 23, 2011

Peggy Larson

Executive Director

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-001 General rule and information.** The chairperson of the board of pilotage commissioners is the assistant secretary of marine operations of the department of transportation of the state of Washington or the assistant secretary's designee. Information regarding the Pilotage Act, complaints and other matters coming under the provisions of the Pilotage Act and the board's rules and regulations may be obtained by contacting the chairperson or the board's (~~secretary~~) staff in person or in writing at the Office of the Board of Pilotage Commissioners(~~(, Pier 52, Seattle, Washington 98104)~~). All public documents in the custody of the board may be obtained upon request made to the chairperson of the Board of Pilotage Commissioners(~~(, Pier 52, Seattle, Washington 98104)~~).

Any matter filed with the chairperson and/or the (~~secretary~~) staff will be brought to the attention of the board at its next regular meeting, the date of which is the second Thursday of each month. Persons desiring to do so may also attend the board meetings(~~(, which are held at Pier 52, Seattle, Washington)~~). Please see [www.pilotage.wa.gov](http://www.pilotage.wa.gov) for office hours, meeting times and locations.

The purpose and scope of activity of the board of pilotage commissioners are set out in chapter 88.16 RCW and are as follows:

- Scope: (1) Puget Sound pilotage district.  
 (2) Grays Harbor pilotage district.

Purpose: The purpose of the board of pilotage commissioners is to prevent the loss of human lives, loss of property and vessels and to protect the marine environment by maintenance of a competent and efficient pilotage service on the state's waters. To accomplish this end the board examines proficiency of potential pilots, licenses pilots, regulates pilots, enforces the use of pilots, sets pilotage rates, receives and investigates reports of accidents involving pilots, keeps records of various matters affecting pilotage and fulfills other responsibilities enumerated in chapter 88.16 RCW.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-090 ((Service of process—By whom served.)) Adoption of the model rules of procedure.** (~~The board of pilotage commissioners shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.~~) Except as they may be inconsistent with the rules of this chapter, the board adopts the model rules of procedure as set forth in chapter 10-08 WAC, et seq. Where the rules of this chapter conflict with chapter 10-08 WAC, the rules of this chapter shall govern.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-230 Depositions and interrogatories ((in contested cases))—Right to take.** Except as may be otherwise provided in this chapter, any party may take the testi-



mony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a complaint. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule of subpoenas.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-240 Depositions and interrogatories ((in-contested cases))—Scope.** Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding. Depositions shall not exceed four hours, including breaks, unless otherwise agreed to by the parties, or unless otherwise ordered by the presiding officer based upon a motion by the party seeking the deposition demonstrating good cause why the deposition should exceed four hours.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-250 Depositions and interrogatories ((in-contested cases))—Officer before whom taken.** Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the board of pilotage commissioners or agreed upon by the parties by stipulation in writing filed with the board. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-260 Depositions and interrogatories ((in-contested cases))—Authorization.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than ~~((three))~~ fifteen days in writing to the board of pilotage commissioners and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. ~~((On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time.))~~ If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-270 Depositions and interrogatories ((in-contested cases))—Protection of parties and deponents.** After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown the board of pilotage commissioners or its designated hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the board, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the board, or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board or its designated hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the ~~((agency))~~ board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-280 Depositions and interrogatories ((in-contested cases—Oral examination and cross-examination)).** ~~((Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross-interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.))~~ (1) Written interrogatories. Written interrogatories may be submitted in accordance with the rules of this chapter, which may become a part of the record of proceedings upon a motion made by one of the parties. Parties shall have sixty days to respond to interrogatories.

(2) Depositions and interrogatories in hearings brought pursuant to WAC 363-116-083 and 363-116-084. The board and the exam committee shall be required to produce for depositions no more than a total of three fact witnesses (two board/committee members, one test developer), and no more

than one expert witness, in connection with any hearing requested pursuant to WAC 363-116-083 and 363-116-084, unless the board's chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

No more than five written interrogatories (including sub-parts) in total may be submitted to other board and/or exam committee members, which may then be submitted as a part of the record of proceedings upon a motion duly made.

The scope of the deposition and interrogatories shall be limited to those issues set forth in WAC 363-116-083(5) and 363-116-084(5) and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, performance evaluations, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

(3) Depositions and interrogatories in hearings brought pursuant to WAC 363-116-086.

(a) Board/TEC witnesses - The board and the trainee evaluation committee (TEC) shall be required to produce no more than a total of two fact witnesses (one board witness, one TEC witness) and no more than one expert witness in support of its decisions made pursuant to WAC 363-116-080, unless the chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

No more than five written interrogatories (including sub-parts) in total may be submitted to other board and/or TEC members, which may then be submitted as a part of the record of proceedings upon a motion duly made. The scope of the deposition and interrogatories will be limited as set forth in WAC 363-116-086 (3)(b) and (c) and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, correspondence to the petitioner, training trip reports, training trip report summary spreadsheets, and/or other documents submitted to the board as a part of the decision making process.

(b) Training and supervising pilots - The board has determined that requiring or permitting the deposition of training and supervising pilots in connection with a hearing pursuant to WAC 363-116-086 would jeopardize the integrity of the training program and would stifle candid and honest assessments of a trainee's performance in the training program. The training and supervising pilots prepare written training trip

reports for each training trip. Those reports shall speak for themselves. Notwithstanding any other provision in these regulations, no training or supervising pilot shall be deposed, or called as a witness, in connection with a hearing brought pursuant to WAC 363-116-086. Consistent with WAC 363-11-410, to the extent a particular training trip report is considered by a party to be vague and/or ambiguous, a party may seek, by way of motion, a declaration from a training or supervising pilot, seeking clarification of specific issues which the party believes, for good cause shown, should be clarified. Such declaration may then become a part of the record of proceedings.

(4) Depositions and interrogatories in hearings brought pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420. The board shall be required to produce for depositions no more than a total of two fact witnesses and, if it deems necessary one expert witness, in connection with any hearing requested pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420, unless the board's chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

No more than five written interrogatories (including sub-parts) in total may be submitted to other board members concerning the matters at issue, which may then be submitted as a part of the record of proceedings upon a motion duly made.

The scope of the deposition and interrogatories will be limited as set forth in RCW 88.16.100(5), WAC 363-116-370 and 363-116-420 and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-290 Depositions and interrogatories** ~~((in contested cases))~~—**Recordation.** The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony ~~((by typewriter directly or))~~ by transcription from stenographic notes ~~((, wire or record recorders, which record shall separately and consecutively number each interrogatory))~~. Depositions shall not be recorded via videotape, or other video recording device under any circumstances. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-310 Depositions and interrogatories ((in contested cases))—Use and effect.** Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon ((his own motion or)) the motion of any party. Except by agreement of the parties or ruling of the hearing officer, ((a deposition will be received only in its entirety)) only that portion of the deposition transcript cited during the adjudicative hearing which demonstrates that the witness made a previously inconsistent statement may become a part of the record of proceedings. The portion of the transcript submitted shall include such testimony necessary to give proper context to the witness's prior statement, as determined by the hearing officer. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-330 Depositions upon interrogatories—Submission of interrogatories.** Where ((the deposition is taken upon)) written interrogatories are submitted as permitted under this chapter, the party offering the testimony shall separately and consecutively number each interrogatory ((and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories)). The number of interrogatories shall not exceed five, including subparts. Answers shall be provided within sixty days of receipt, unless otherwise ordered by the presiding officer, and may be submitted as a part of the record of proceedings upon a motion duly made by either party.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-350 Depositions upon interrogatories—Attestation and return.** The ((officer before whom)) answers to interrogatories ((are verified or answered)) shall (((+))) certify under ((his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the board of pilotage commissioners, or its designated hearing officer, one copy to

the counsel who submitted the interrogatories and another copy to the deponent)) penalty of perjury, of the laws of the state of Washington that the answers are true and correct as of the date of attestation.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-410 ((Form and content of decisions in contested cases.)) Adjudicative hearings—Testimony.** ((Every decision and order, whether proposed, initial, or final, shall:

- (1) ~~Be correctly captioned as to name of agency and name of proceeding;~~
  - (2) ~~Designate all parties and counsel to the proceeding;~~
  - (3) ~~Include a concise statement of the nature and background of the proceeding;~~
  - (4) ~~Be accompanied by appropriate numbered findings of fact and conclusions of law;~~
  - (5) ~~Whenever practical, include the reason or reasons for the particular order or remedy afforded;~~
  - (6) ~~Wherever practical, be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same-))~~
- (1) Testimony in hearings brought pursuant to WAC 363-116-083 and 363-116-084. The board and the exam committee shall be required to produce no more than a total of three fact witnesses (two board/committee members, one test developer), and no more than one expert witness, for any hearing requested pursuant to WAC 363-116-083 and 363-116-084, unless the board's chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

The scope of the hearing shall be limited to those issues set forth in WAC 363-116-083(5) and 363-116-084(5) and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, performance evaluations, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

(2) Testimony in hearings brought pursuant to WAC 363-116-086.

(a) Board/TEC witnesses - The board and the trainee evaluation committee (TEC) shall be required to produce no more than a total of two fact witnesses (one board witness, one TEC witness) and no more than one expert witness in support of its decisions made pursuant to WAC 363-116-080, unless the chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of wit-

nesses. The scope of the testimony for the hearing will be limited as set forth in WAC 363-116-086 (3)(b) and (c) and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, training trip reports, training trip report summary spreadsheets, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

(b) Training and supervising pilots - The board has determined that requiring or permitting the testimony of training and supervising pilots in connection with a hearing pursuant to WAC 363-116-086 would jeopardize the integrity of the training program and would stifle candid and honest assessments of a trainee's performance in the training program. The training and supervising pilots prepare written training trip reports for each training trip. Those reports shall speak for themselves. Notwithstanding any other provision in these regulations, no training or supervising pilot shall be called as a witness in connection with a hearing brought pursuant to WAC 363-116-086. To the extent a particular training trip report is considered by a party to be vague and/or ambiguous, a party may seek, by way of motion, a declaration from a training or supervising pilot, seeking clarification of specific issues which the party believes, for good cause shown, should be clarified. The burden to demonstrate that there is a necessity for such a declaration shall be on the petitioner, who must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means. Such declaration may then become a part of the record of proceedings, upon a motion duly made by a party to the proceedings.

(3) Testimony in hearings brought pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420. The board shall be required to produce no more than a total of two fact witnesses and, if it deems necessary one expert witness, in connection with any hearing requested pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420, unless the board's chair, in his/her sole discretion determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

The scope of the testimony for the hearing will be limited to those issues set forth in RCW 88.16.100(5), WAC 363-116-370 and 363-116-420 and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, incident reports, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-420 (~~Definition of issues before hearing~~) Scope of discovery, relevant documents for hearings and record of proceedings.** (1) Hearings brought pursuant to WAC 363-116-083 and 363-116-084. The scope of discovery and relevant admissible documents, shall be limited to those materials bearing on the issues set forth in WAC 363-116-083(5) and 363-116-084(5), and as may otherwise be limited by chapter 363-11 WAC herein. Documentation and materials relating to the performance of pilot applicants other than those requesting a hearing are not relevant, they shall not be subject to discovery, they shall not be submitted as an exhibit or referenced in any hearing, nor shall they be submitted for inclusion in any record of proceeding conducted pursuant to WAC 363-116-083 and 363-116-084.

(2) Hearings brought pursuant to WAC 363-116-086. The scope of discovery and relevant admissible documents shall be limited to those materials bearing on the issues set forth in WAC 363-116-086, and as may otherwise be limited by chapter 363-11 WAC herein. Documentation and materials relating to the performance of pilot trainees other than those requesting a hearing are not relevant, they shall not be subject to discovery, they shall not be submitted as an exhibit or referenced in any hearing, nor shall they be submitted for inclusion in any hearing or record of proceeding conducted pursuant to WAC 363-116-086.

(3) Hearings brought pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420. The scope of discovery and relevant admissible documents shall be limited to those materials bearing on the issues set forth in RCW 88.16.100(5), WAC 363-116-370 and 363-116-420, and as may otherwise be limited by chapter 363-11 WAC herein. Documentation and materials relating to the performance of pilots other than those requesting a hearing are not relevant, they shall not be subject to discovery, they shall not be submitted as an exhibit or referenced in any hearing, nor shall they be submitted for inclusion in any hearing or record of proceeding conducted pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420.

In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearings on relevant and material matter only.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-470 Expert or opinion testimony (~~and testimony based on economic or statistical data~~)—Number and qualifications of witnesses.** That the hearing examiner or other appropriate officer in all classes of cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and

fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-480 Expert or opinion testimony (~~and testimony based on economic or statistical data~~)—Written sworn statements.** That the hearing examiner or other appropriate officer, in all classes of cases in which it is practicable and permissible, require, and when not so permissible, make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony (~~based on economic or statistical data~~) be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing, which shall be no less than sixty days prior to the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses. If cross examination is requested, the sworn written statement may be supplemented with live direct testimony consistent with the sworn written statement.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-490 Expert or opinion testimony (~~and testimony based on economic or statistical data~~)—Supporting data.** That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC (~~(296-11-480)~~) 363-11-480, at least sixty day prior to the hearing, but, wherever practicable that he restrict to a minimum the placing of such data in the record.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-500 Expert or opinion testimony and testimony based on economic or statistical data—Effect of noncompliance with WAC 363-11-470 or 363-11-480.** Whenever the manner of introduction of opinion or expert testimony (~~or testimony based on economic or statistical data~~) is governed by requirements fixed under the provisions of WAC (~~(296-11-470 or 296-11-480)~~) 363-11-470 or 363-11-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-520 Rules of evidence—Admissibility criteria.** Subject to the other provisions (~~of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington~~) and rules on evidence set forth in this chapter, evidentiary rulings shall conform with RCW 34.05.452 and WAC 10-08-140.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.** When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. A party may move to exclude evidence previously admitted pursuant to WAC 10-08-140(6); a party may also move to exclude previously admitted evidence if a subsequent ruling by the presiding officer renders previously admitted evidence irrelevant, cumulative, immaterial and/or inadmissible and the moving party can demonstrate that the granting of such motion will not unjustly prejudice the rights of the other party. Such a motion shall be permissible and considered timely if made prior to the close of the hearing.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-580 Declaratory rulings.** As prescribed by chapter 34.05 RCW ((34.04.080)) et seq., any interested person may petition the board of pilotage commissioners for a declaratory ruling. The board shall consider the petition and within a reasonable time the board shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued or
- (3) Set a reasonable time and place for a hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved.
- (4) If a hearing is held or evidence is submitted as provided in subsection (3), the board shall within a reasonable time:
  - (a) Issue a binding declaratory rule; or
  - (b) Issue a nonbinding declaratory ruling; or
  - (c) Notify the person that no declaratory ruling is to be issued.

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

**WAC 363-11-590 Forms.** (1) Any interested person petitioning the board of pilotage commissioners for a declaratory ruling pursuant to RCW ((34.04.080)) 34.05.240, shall generally adhere to the following form for such purpose.

(a) At the top of the page shall appear the wording "Before the board of pilotage commissioners, state of Washington," on the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(c) The original and two legible copies shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x ((43)) 14" in size.

(2) Any interested person petitioning the board of pilotage commissioners requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

(a) At the top of the page shall appear the wording "Before the board of pilotage commissioners, state of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed

with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x ((43)) 14" in size.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 363-11-003	Index to documents.
WAC 363-11-070	Computation of time.
WAC 363-11-080	Notice and opportunity for hearing in contested cases.
WAC 363-11-100	Service of process—Upon whom served.
WAC 363-11-110	Service of process—Service upon parties.
WAC 363-11-120	Service of process—Method of service.
WAC 363-11-130	Service of process—When service complete.
WAC 363-11-140	Service of process—Filing with agency.
WAC 363-11-150	Subpoenas—Where provided by law—Form.
WAC 363-11-160	Subpoenas—Issuance to parties.
WAC 363-11-170	Subpoenas—Service.
WAC 363-11-180	Subpoenas—Fees.
WAC 363-11-190	Subpoenas—Proof of service.
WAC 363-11-200	Subpoenas—Quashing.
WAC 363-11-210	Subpoenas—Enforcement.
WAC 363-11-220	Subpoenas—Geographical scope.
WAC 363-11-300	Depositions and interrogatories in contested cases—Signing attestation and return.
WAC 363-11-340	Depositions upon interrogatories—Interrogation.
WAC 363-11-360	Depositions upon interrogatories—Provisions of deposition rule.
WAC 363-11-430	Prehearing conference rule—Authorized.
WAC 363-11-440	Prehearing conference rule—Record of conference action.
WAC 363-11-450	Submission of documentary evidence in advance.