

WSR 13-01-004
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed December 6, 2012, 5:36 a.m., effective December 6, 2012]

Effective Date of Rule: December 6, 2012.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Such action is necessary to comply with chapter 3, Laws of 2012 (ESSB 6239).

Purpose: WAC 246-491-149, the rule provides gender-neutral terms for spouses on marriage and divorce certificates and adds sex as an item on the marriage certificate. The rule change is in response to the same-sex marriage law, approved by voters as Referendum 74. Same-sex couples who marry may expect their marriage and divorce certificates to use gender-neutral language. The public may have an interest in knowing how many same-sex marriages occur.

Citation of Existing Rules Affected by this Order: Amending WAC 246-491-149.

Statutory Authority for Adoption: RCW 43.70.150.

Adopted under notice filed as WSR 12-21-117 on October 23, 2012.

Changes Other than Editing from Proposed to Adopted Version: The adopted version allows people to choose among the terms bride, groom and spouse on the marriage certificate under the headings of Person A and Person B, which differentiate one person's information from the other's [information]. The adopted version omits a proposed item on last name after marriage and clarifies the name associated with each signature in the section on Social Security numbers.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 6, 2012.

Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 09-11-111, filed 5/19/09, effective 6/19/09)

WAC 246-491-149 Information collected on the legal or public section of certificates; modifications to the United States standard certificates and report forms. (1) Effective January 1, 2003, the department shall use the 2003 revisions of the United States standard forms for live birth and fetal death.

(2) Effective January 1, 2004, the department shall use the 2003 standard form for death.

(3) Effective January 1, 1992, the department shall use the 1988 revisions of the United States standard forms for marriage and certificate of divorce, dissolution of marriage or annulment.

(4) These forms are developed by the United States Department of Health and Human Services, National Center for Health Statistics. Copies of these forms may be obtained by contacting the department's center for vital statistics.

(5) With the exception of the confidential section, the department may modify any part of these forms.

(a) Table 3 identifies the modifications to the United States standard form for live birth.

(b) Table 4 identifies the modifications to the United States standard form for fetal death.

(c) Table 5 identifies the modifications to the United States standard form for death.

(d) Table 6 identifies modifications to the United States standard form for marriage.

(e) Table 7 identifies modifications to the United States standard form for certificate of divorce, dissolution of marriage, or annulment.

(6) Table 8 lists items to be collected on the certificate of dissolution of Washington state domestic partnership. This is a Washington state form not addressed in the United States standard forms.

U.S. STANDARD CERTIFICATE OF LIVE BIRTH

Table 3:
Legal or Public Birth Certificate Items

Item Number	Item Name	Difference from U.S. Standard, if any
1	Child's name	
2	Child's date of birth	
3	Time of birth	
4	Type of birthplace	Add "En route," Add "Planned birthplace if different"
5	Child's sex	
6	Name of facility	
7	City, town or location of birth	
8	County of birth	
9	Mother's name before first marriage	
10	Mother's date of birth	
11	Mother's birthplace	
12	Mother's Social Security number	
13	Mother's current legal last name	

U.S. STANDARD CERTIFICATE OF LIVE BIRTH

**Table 3:
Legal or Public Birth Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
14	Social Security number requested for child?	
16a	Mother's residence - Number, street, and Apt. No.	
16b	Mother's residence - <u>C</u> ity or town	
16c	Mother's residence - <u>C</u> ounty	
16d	Tribal reservation name (if applicable)	Added
16e	Mother's residence - <u>S</u> tate or foreign country	
16f	Mother's residence - <u>Z</u> ip code + 4	
16g	Mother's residence - <u>I</u> nside city limits?	
17	Telephone number	Added
18	How long at current residence?	Added
19	Mother's mailing address, if different	
25	Father's current legal name	
26	Father's date of birth	
27	Father's birthplace	
28	Father's Social Security number	
66	Certifier name and title	Delete check boxes
67	Date certified	
68	Attendant name and title	Delete check boxes
69	NPI of person delivering the baby	
—	Date filed by registrar	Deleted

U.S. STANDARD REPORT OF FETAL DEATH

**Table 4:
Legal or Public Fetal Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
1	Name of fetus	
2	Sex	

U.S. STANDARD REPORT OF FETAL DEATH

**Table 4:
Legal or Public Fetal Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
3	Date of delivery	
4	Time of delivery	
5	Type of birthplace	Add "En route," Add "Planned birthplace if different"
6	Name of facility	
7	Facility ID (NPI)	
8	City, town or location of birth	
9	Zip code of delivery	
10	County of birth	
11	Mother's name before first marriage	
12	Mother's date of birth	
13	Mother's current legal last name	
14	Mother's birthplace	
15a	Mother's residence - <u>N</u> umber, street, and Apt. No.	
15b	Mother's residence - <u>C</u> ity or town	
15c	Mother's residence - <u>C</u> ounty	
15d	Tribal reservation name (if applicable)	Added
15e	Mother's residence - <u>S</u> tate or foreign country	
15f	Mother's residence - <u>Z</u> ip code + 4	
15g	Mother's residence - <u>I</u> nside city limits?	
16	How long at current residence?	Added
17	Father's current legal name	
18	Father's date of birth	
19	Father's birthplace	
20	Name and title of person completing the report	
21	Date report completed	
22	Attendant name and title	Delete check boxes

U.S. STANDARD REPORT OF FETAL DEATH

**Table 4:
Legal or Public Fetal Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
23	NPI of person delivering the baby	
24	Method of disposition	
25	Date of disposition	
26	Place of disposition	Added
27	Location of disposition - City/town and state	Added
28	Name and complete address of funeral facility	Added
29	Funeral director signature	Added
30	Initiating cause/condition (cause of death)	
31	Other significant causes or conditions	
32	Estimated time of fetal death	
33	Was an autopsy performed?	
34	Was a histological placental examination performed?	
35	Were autopsy or histological placental examination results used in determining the cause of death?	
36	Registrar signature	Added
37	Date received	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
6	County of death	
7	Birth date	
8a	Birth place - City, town or county	
8b	Birth place - State or foreign country	
9	Decedent's education	Add "Specify": next to box for "8th Grade or less"
10	Decedent's Hispanic origin	
11	Decedent's race	
12	Was decedent ever in U.S. Armed Forces?	
13a	Residence - Number and street	
13b	Residence - City or town	
13c	Residence - County	
13d	Tribal reservation name (if applicable)	Added
13e	Residence - State or foreign country	
13f	Residence - Zip code	
13g	Inside city limits?	
14	Estimated length of time at residence	Added
15	Marital status at time of death	
16	Surviving spouse's name	
17	Occupation	
18	Kind of business/industry	
19	Father's name	
20	Mother's name before first marriage	
21	Informant - Name	
22	Informant - Relationship to decedent	
23	Informant - Address	
24	Place of death	
25	Facility name (if not a facility, give number and street)	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
1	Legal name (include a.k.a.'s if any)	
2	Death date	
3	Sex	
4a	Age - Years	
4b	Age - Under 1 year	
4c	Age - Under 1 day	
5	Social Security number	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
26a	City, town, or location of death	
26b	State of death	
27	Zip code of death	
28	Method of disposition	
29	Place of disposition (name of cemetery, crematory, other place)	
30	Disposition - City/town, and state	
31	Name and complete address of funeral facility	
32	Date of disposition	Added
33	Funeral director signature	
34	Causes of death and intervals between onset and death	
35	Other significant conditions contributing to death	
36	Autopsy?	
37	Were autopsy findings available to complete the cause of death?	
38	Manner of death	
39	Pregnancy status	
40	Did tobacco use contribute to death?	
41	Date of injury	
42	Hour of injury	
43	Place of injury	
44	Injury at work?	
45	Injury location - Street, city, county, state, zip	County Added
46	Describe how injury occurred	
47	Transport injury type	
48a	Certifying physician signature	
48b	Medical examiner/coroner signature	
49	Name and address of certifier	
50	Hour of death	

U.S. STANDARD CERTIFICATE OF DEATH

**Table 5:
Death Certificate Items**

Item Number	Item Name	Difference from U.S. Standard, if any
51	Name and title of attending physician if other than certifier	Added
52	Date certified	
53	Title of certifier	
54	License number of certifier	
55	ME/coroner file number	Added
56	Was case referred to medical examiner?	
57	County registrar signature	Added
58	County date received	Added
59	Record amendment	Added
—	License number of funeral director	Deleted
—	Date pronounced dead	Deleted
—	Time pronounced dead	Deleted
—	Signature of person pronouncing death	Deleted
—	License number of person pronouncing death	Deleted
—	Date person pronouncing death signed	Deleted

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
(—)	Certificate name	Changed name of form to "Certificate of Marriage"
—	County of license	
—	Date valid	
—	Not valid after (date)	
1	Date of marriage	
2	County of ceremony	
3	Type of ceremony	Added
4	Date signed (by officiant)	Added
5	Officiant's name	
6	Officiant's signature	
7	Officiant's address	
8	Groom's name	

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
9	Groom's address (street)	
10	Groom's date of birth	
11	Groom's place of birth (state or country)	
12	Groom's address (city)	
13	Groom's address (inside city limits)	Added
14	Groom's address (county)	
15	Groom's address (state)	
16	Groom's father - Name	
17	Groom's father - Place of birth	
18	Groom's mother - Maiden name	
19	Groom's mother - Place of birth	
20	Groom's signature	
21	Date signed (by groom)	
22	Bride's name	
23	Bride's maiden last name	
24	Bride's residence - (Street)	
25	Bride's date of birth	
26	Bride's place of birth (state or country)	
27	Bride's residence (city)	
28	Bride's residence (inside city limits)	Added
29	Bride's residence (county)	
30	Bride's residence (state)	
31	Bride's father - Name	
32	Bride's father - Place of birth	
33	Bride's mother - Maiden name	
34	Bride's mother - Place of birth	
35	Bride's signature	
36	Date signed (by bride)	
37	Witness #1 signature	
38	Witness #2 signature	
39	County auditor signature	
40	Date received (by county auditor)	

Item Number	Item Name	Difference from U.S. Standard, if any
Reverse-side	Groom's Social Security number	
Reverse-side	Bride's Social Security number	
	Groom's age last birthday	Deleted
	Bride's age last birthday	Deleted
	License to marry section	Deleted
	Expiration date of license	Deleted
	Title of issuing official	Deleted
	Confidential information	Deleted))
	Certificate name	Modified
1	County of license	Added
2	Date valid	
3	Not valid after (date)	
4	County auditor signature	
5	Date received (by county auditor)	
6a	Person A - Bride/groom/spouse	Added
6b	Legal name before marriage	Modified
6c	Birth name, if different	Added
6d	Sex - Male/female	Added
6e	Current residence (street, city/town)	
6f	County of residence	
6g	State of residence	
6h	Date of birth	
6i	Birth state (if not USA, provide country)	
6j	Mother/parent birth name	Modified
6k	Father/parent birth name	Modified
6l	Mother/parent birth state (or country)	Modified
6m	Father/parent birth state (or country)	Modified
7a	Person B - Bride/groom/spouse	Added
7b	Legal name before marriage	
7c	Birth name, if different	Modified
7d	Sex - Male/female	Added
7e	Current residence (street, city/town)	

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
<u>7f</u>	<u>County of residence</u>	
<u>7g</u>	<u>State of residence</u>	
<u>7h</u>	<u>Date of birth</u>	
<u>7i</u>	<u>Birth state (if not USA, provide country)</u>	
<u>7j</u>	<u>Mother/parent birth name</u>	<u>Modified</u>
<u>7k</u>	<u>Father/parent birth name</u>	<u>Modified</u>
<u>7l</u>	<u>Mother/parent birth state (or country)</u>	<u>Modified</u>
<u>7m</u>	<u>Father/parent birth state (or country)</u>	<u>Modified</u>
<u>8</u>	<u>Date of marriage</u>	
<u>9</u>	<u>County of ceremony</u>	
<u>10</u>	<u>Type of ceremony</u>	<u>Added</u>
<u>11</u>	<u>Date signed (by officiant)</u>	<u>Added</u>
<u>12</u>	<u>Officiant's address</u>	
<u>13</u>	<u>Officiant's daytime phone</u>	<u>Added</u>
<u>14</u>	<u>Officiant's name</u>	
<u>15</u>	<u>Officiant's signature</u>	
<u>16</u>	<u>Witness signature</u>	
<u>17</u>	<u>Witness signature</u>	
<u>18</u>	<u>Person A signature</u>	<u>Modified</u>
<u>19</u>	<u>Date signed (by person A)</u>	<u>Added</u>
<u>20</u>	<u>Person B signature</u>	<u>Modified</u>
<u>21</u>	<u>Date signed (by person B)</u>	<u>Added</u>
<u>22</u>	<u>Person A - Social Security number</u>	<u>Added</u>
<u>23</u>	<u>Person A - Name</u>	<u>Added</u>
<u>24</u>	<u>Person B - Social Security number</u>	<u>Added</u>
<u>25</u>	<u>Person B - Name</u>	<u>Added</u>
<u>26</u>	<u>Person A signature - Declaration in absence of a Social Security number</u>	<u>Added</u>
<u>27</u>	<u>Person A date - Declaration in absence of a Social Security number</u>	<u>Added</u>
<u>28</u>	<u>Person B signature - Declaration in absence of a Social Security number</u>	<u>Added</u>
<u>29</u>	<u>Person B date - Declaration in absence of a Social Security number</u>	<u>Added</u>

U.S. STANDARD LICENSE AND CERTIFICATE OF MARRIAGE

**Table 6:
Certificate of Marriage**

Item Number	Item Name	Difference from U.S. Standard, if any
	<u>(Groom's) age last birthday</u>	<u>Deleted</u>
	<u>(Bride's) age last birthday</u>	<u>Deleted</u>
	<u>Signature of (license) issuing official</u>	<u>Deleted</u>
	<u>Title of (license) issuing official</u>	<u>Deleted</u>
	<u>Where married - City, town or location</u>	<u>Deleted</u>
	<u>Title (of officiant)</u>	<u>Deleted</u>
	<u>Confidential information</u>	<u>Deleted</u>

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

TABLE 7:

Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation

Item Number	Item Name	Difference from U.S. Standard, if any
	((Certificate name	Changed form-name to certificate of dissolution, declaration of invalidity of marriage or legal separation
	<u>Court file number</u>	
<u>1</u>	<u>Type of decree</u>	<u>Added check-boxes</u>
<u>2</u>	<u>Date of filing</u>	
<u>3</u>	<u>County where decree filed</u>	
<u>4</u>	<u>Signature of superior court clerk</u>	
<u>5</u>	<u>Husband's name</u>	
<u>6</u>	<u>Husband's date of birth</u>	
<u>7</u>	<u>Husband's place of birth</u>	
<u>8</u>	<u>Husband's residence—street</u>	
<u>9</u>	<u>Husband's residence—city</u>	
<u>10</u>	<u>Husband's residence—inside city limits</u>	<u>Added</u>
<u>11</u>	<u>Husband's residence—County</u>	

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

TABLE 7:

Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation

Item Number	Item Name	Difference from U.S. Standard, if any
12	Husband's residence— State	
13	Wife's name	
14	Wife's maiden name	
15	Wife's date of birth	
16	Wife's place of birth	
17	Wife's residence— Street	
18	Wife's residence— City	
19	Wife's residence— Inside city limits	Added
20	Wife's residence— County	
21	Wife's residence— State	
22	Place of marriage— County	
23	Place of marriage— State	
24	Date of marriage	
25	Number of children of this marriage	Name change
26	Petitioner	Delete check boxes
27	Name of petitioner's attorney/pro se	
28	Petitioner's address	
29	Husband's Social Security number	
30	Wife's Social Security number	
	Date couple last resided in same household	Delete
	Number of children under 18 whose physical custody was awarded to	Delete
	Title of court	Delete
	Title of certifying official	Delete
	Date signed	Delete
	Confidential information	Delete))
	Certificate name	Modified
<u>1</u>	<u>Court file number</u>	<u>Added</u>
<u>2</u>	<u>Type of decree</u>	
<u>3</u>	<u>Date of decree</u>	
<u>4</u>	<u>County where decree filed</u>	

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

TABLE 7:

Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation

Item Number	Item Name	Difference from U.S. Standard, if any
<u>5</u>	<u>Signature of superior court clerk</u>	
<u>6a</u>	<u>Spouse A - Name</u>	<u>Added</u>
<u>6b</u>	<u>Birth name, if different</u>	<u>Added</u>
<u>6c</u>	<u>Date of birth</u>	
<u>6d</u>	<u>Place of birth (state or country)</u>	
<u>6e</u>	<u>Residence - Street</u>	<u>Added</u>
<u>6f</u>	<u>Residence - City</u>	
<u>6g</u>	<u>Residence - County</u>	
<u>6h</u>	<u>Residence - State</u>	
<u>7a</u>	<u>Spouse B - Name</u>	<u>Added</u>
<u>7b</u>	<u>Birth name, if different</u>	<u>Modify</u>
<u>7c</u>	<u>Date of birth</u>	
<u>7d</u>	<u>Place of birth (state or country)</u>	
<u>7e</u>	<u>Residence - Street</u>	<u>Added</u>
<u>7f</u>	<u>Residence - City</u>	
<u>7g</u>	<u>Residence - County</u>	
<u>7h</u>	<u>Residence - State</u>	
<u>8</u>	<u>Place of marriage - County</u>	
<u>9</u>	<u>Place of marriage - State</u>	
<u>10</u>	<u>Date of marriage</u>	
<u>11</u>	<u>Number of children born alive of this marriage</u>	<u>Added</u>
<u>12</u>	<u>Petitioner</u>	
<u>13</u>	<u>Name of petitioner's attorney or pro se</u>	
<u>14</u>	<u>Petitioner's attorney's address</u>	
<u>15</u>	<u>Spouse A Social Security number</u>	<u>Added</u>
<u>16</u>	<u>Spouse B Social Security number</u>	<u>Added</u>
	<u>Date (decree) recorded</u>	<u>Deleted</u>
	<u>Number of children under 18 whose physical custody was awarded to (husband, wife, joint, other)</u>	<u>Deleted</u>
	<u>Number of children under 18 in household</u>	<u>Deleted</u>
	<u>Title of court</u>	<u>Deleted</u>

U.S. STANDARD CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

TABLE 7:

Certification of Dissolution, Declaration of Invalidity of Marriage, or Legal Separation

Item Number	Item Name	Difference from U.S. Standard, if any
	<u>Title of certifying official</u>	<u>Deleted</u>
	<u>Date (certifying official) signed</u>	<u>Deleted</u>
	<u>Date couple last resided in same household</u>	<u>Deleted</u>
	<u>Confidential items</u>	<u>Deleted</u>

TABLE 8:

Certification of Dissolution of Washington State Domestic Partnership

Item Number	Item Name
	Certificate name
	Court file number
1	Type of decree
2	Date of decree
3	County where decree filed
4	Signature of superior court clerk
5a	First partner's name
5b	First partner's name at birth
6	First partner's date of birth
7	First partner's place of birth
8	First partner's residence - Street
9	First partner's residence - City
10	First partner's residence - Inside city limits
11	First partner's residence - County
12	First partner's residence - State
13a	Second partner's name
13b	Second partner's name at birth
14	Second partner's date of birth
15	Second partner's place of birth

TABLE 8:

Certification of Dissolution of Washington State Domestic Partnership

Item Number	Item Name
16	Second partner's residence - Street
17	Second partner's residence - City
18	Second partner's residence - Inside city limits
19	Second partner's residence - County
20	Second partner's residence - State
21	Date of this partnership
22	Domestic partnership certificate number
23	Petitioner
24	Name of petitioner's attorney/pro se
25	Petitioner's address

WSR 13-01-006

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 6, 2012, 9:04 a.m., effective January 6, 2013]

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

Purpose: At the request of the hazelnut industry, this rule-making order creates chapter 16-474 WAC, which establishes a quarantine placing restrictions on the importation of hazelnut plants into Washington state in response to development in other areas of the United States of new, more virulent strains of Eastern filbert blight.

Statutory Authority for Adoption: RCW 17.24.041 and 15.13.260.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 12-21-132 on October 24, 2012.

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

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Date Adopted: December 6, 2012.

Dan Newhouse
Director

Chapter 16-474 WAC

EASTERN FILBERT BLIGHT QUARANTINE

NEW SECTION

WAC 16-474-001 Eastern filbert blight—Establishing quarantine. A quarantine is established under chapters 17.24 and 15.13 RCW to protect the Washington hazelnut industry from exotic strains of the eastern filbert blight disease. Eastern filbert blight is a highly infectious plant disease affecting hazelnuts (also called filberts) and closely related species. It is caused by the fungus *Anisogramma anomala*. Until recently, varieties of hazelnuts grown in the Pacific Northwest were resistant to the local strain of *A. anomala*. However, more virulent strains of *A. anomala* have been found in the eastern portion of the United States. If these more virulent, exotic strains are introduced into Washington, the disease resistance of local commercial and ornamental varieties of hazelnuts will decline and may be lost, resulting in potentially devastating economic consequences to growers, loss of ornamental or landscape hazelnut plants, and environmental consequences of removing habitat and food sources for wildlife.

NEW SECTION

WAC 16-474-005 Eastern filbert blight—Definitions. "Department" means the Washington state department of agriculture.

"Eastern filbert blight" means a disease of hazelnut plants caused by the fungus *Anisogramma anomala*.

"Hazelnut plant" means plants and plant parts of any species in the genus *Corylus*.

"Micropropagate" means plant propagation using aseptic laboratory techniques and artificial culture medium.

"Pest free area" means an area where eastern filbert blight does not occur, as demonstrated by scientific evidence, and where this condition is being officially maintained.

"Phytosanitary certificate" means a certificate issued by a government agency under authority of state or federal statute, which declares or establishes the pest status of a shipment of plants or plant parts under accepted inspection or sampling procedures. Phytosanitary certificates are patterned after model certificates of the International Pest Protection Convention.

NEW SECTION

WAC 16-474-010 Eastern filbert blight—Area under quarantine. The area under quarantine consists of all states and territories of the United States outside of the state of Washington.

NEW SECTION

WAC 16-474-015 Eastern filbert blight—Regulated articles. All plants and plant parts of any species of the genus *Corylus* are regulated, except edible nuts that are free of green twigs and other plant debris that may harbor *Anisogramma anomala*.

NEW SECTION

WAC 16-474-020 Eastern filbert blight—Restrictions. (1) Regulated articles from any area east of the Rocky Mountains, including all of Montana, Wyoming, Colorado, and New Mexico, are prohibited unless accompanied by a phytosanitary certificate with one of the following declarations:

(a) The hazelnut plants originate from a pest free area for eastern filbert blight.

(b) The hazelnut plants are micropropagated and shipped in artificial culture medium in sealed containers.

(2) Regulated articles from any area except the area addressed in subsection (1) of this section must be accompanied by a phytosanitary certificate stating that the hazelnut plants have been inspected by the certifying agency during the last active growing season and found free of eastern filbert blight.

NEW SECTION

WAC 16-474-025 Eastern filbert blight—Disposition of articles not in compliance. The department will refuse admittance into the state of all regulated articles not complying with the requirements of this rule. If regulated articles enter the state in violation of eastern filbert blight quarantine provisions, the owner or the owner's responsible agent will be given the option of destroying the material in a manner that will prevent dissemination of any *Anisogramma anomala* or immediately sending it out-of-state.

NEW SECTION

WAC 16-474-030 Eastern filbert blight—Permits. The department may issue permits waiving portions of this chapter and specifying conditions under which regulated material may be imported from the quarantine area in the following situations:

(1) The material is *Corylus* planting stock being imported by Washington State University or USDA for experimental or trial purposes; or

(2) No more than twenty-five plants are being imported by a grower as source material for micropropagation, and these plants will be isolated and held until the department determines them to be free of *Anisogramma anomala*. As a condition of the permit, the permit holder may be required to hold these source plants in an enclosed facility during the micropropagation process and to destroy them upon its completion.

WSR 13-01-007
PERMANENT RULES
FOREST PRACTICES BOARD

[Filed December 6, 2012, 9:16 a.m., effective January 6, 2013]

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

Purpose: Eliminate inconsistencies between chapter 76.09 RCW and Title 222 WAC created with 2007, 2011, and 2012 legislation.

Citation of Existing Rules Affected by this Order: Amending WAC 222-08-032, 222-12-035, 222-12-0401, 222-12-0402, 222-16-010, 222-16-050, 222-20-010, 222-20-015, 222-20-016, 222-20-020, 222-20-040, 222-20-050, and 222-20-080.

Statutory Authority for Adoption: RCW 76.09.040 and 76.09.370.

Adopted under notice filed as WSR 12-17-152 on August 22, 2012.

Changes Other than Editing from Proposed to Adopted Version: The proposed rule eliminated the large forest landowner portion of the definition of "forest landowner" in WAC 222-16-010. The adopted rule reinserts a stand-alone definition of "large forest landowner" in WAC 222-16-010.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 12, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 10, Repealed 0.

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

Date Adopted: November 13, 2012.

L. S. Young
Chair

AMENDATORY SECTION (Amending WSR 08-24-011, filed 11/21/08, effective 12/22/08)

WAC 222-08-032 Function, organization, and office.

(1) The forest practices board was created by chapter 76.09 RCW to adopt forest practices rules as described in WAC 222-12-010.

(2) The board's membership as described in RCW 76.09.030(1), consists of thirteen members to include:

(a) The commissioner of public lands or the commissioner's designee;

(b) The director of the department of ~~((community, trade, and economic development))~~ commerce or the director's designee;

(c) The director of the department of agriculture or the director's designee;

(d) The director of the department of ecology or the director's designee;

(e) The director of the department of fish and wildlife or the director's designee;

(f) An elected member of a county legislative authority appointed by the governor so long as that member serves as an elected official;

(g) A member representing a timber products union, appointed by the governor from a list of three names submitted by a timber labor coalition affiliated with a statewide labor organization that represents a majority of the timber product unions in the state; and

(h) Six members of the general public appointed by the governor, one of whom shall be a small forest landowner who actively manages his or her land, and one of whom shall be an independent logging contractor.

(3) The governor-appointed members are appointed to four-year terms.

(4) The commissioner of public lands or designee shall chair the board.

(5) General public members of the board, except public employees and elected officials, shall be compensated in accordance with RCW 43.03.250. Each member shall be entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

(6) Staff support is provided to the board as provided in RCW 76.09.030(6). Staff shall perform the following duties under the general authority and supervision of the board:

(a) Act as administrative arm of the board;

(b) Act as records officer to the board;

(c) Coordinate the policies and activities of the board; and

(d) Act as liaison between the board and other public agencies and stakeholders.

(7) The administrative office of the board is located at 1111 Washington Street S.E., Olympia, Washington. The board may sit or hold hearings anywhere in the state. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, except legal holidays and during board meetings. The board may be contacted at:

Forest Practices Board
c/o Department of Natural Resources
Forest Practices Division
P.O. Box 47012
Olympia, WA 98504-7012
Phone: 360-902-1400
Fax: 360-902-1428
E-mail: forest.practicesboard@dnr.wa.gov

(8) Any person may contact the board as indicated in subsection (7) of this section to obtain information on board activities.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-12-035 *Small forest landowner long-term applications. In order to facilitate flexibility for small forest landowners in the timing of their forest practices activities, the department will receive, and approve or disapprove, long-term forest practices applications. Small forest landowners

((as defined in WAC 222-21-010(13))) are eligible to submit long-term applications unless proposing a conversion to a use other than commercial timber production. An approved long-term application will be effective for a term of ~~((three))~~ four to fifteen years at the discretion of the landowner. These applications may contain alternate plans for all or portions of the forest land area included in the long-term application. Alternate plan portions of long-term applications will be reviewed according to the alternate plan process described in WAC 222-12-0401. The process for small forest landowner long-term applications is described in WAC 222-20-016.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-12-0401 *Alternate plans—Process. (1) Application. A landowner may submit an alternate plan that departs from the specific provisions of chapters 222-22 through 222-38 WAC for any or all of the activities described in the application. Alternate plans must be submitted with a ~~((two-year))~~ three-year, multiyear, or small forest landowner long-term application. Alternate plans may support a single forest practices application or multiple applications if the sites included in the plan have sufficient common physical characteristics and elements to justify being considered together. See board manual section 21.

(2) Plan preparation. The landowner is responsible for preparing and submitting an alternate plan. Small forest landowners may wish to seek the assistance of the small forest landowner office. See WAC 222-12-0402.

(3) Contents of alternate plans. Alternate plans must contain all of the following:

(a) A map of the area covered, at a scale acceptable to the department showing the location of any affected streams and other waters, wetlands, unstable slopes, and existing roads. The map must also show the location of proposed road construction, timber harvest, and other forest practices;

(b) A description of how the alternate plan provides public resource protection to meet the approval standard, including a description of the proposed alternate management strategy, prescriptions, and where applicable, aquatic resource enhancements;

(c) A list of the forest practices rules that the alternate management plan is intended to replace;

(d) Where applicable, descriptions of monitoring and adaptive management strategies, including landowner plans for annual performance reviews;

(e) Where applicable, descriptions of an implementation schedule; and

(f) When multiple forest practices applications are submitted with the same alternate plan or when an alternate plan has been used for previous applications, justification that the sites included in the plan share sufficient common physical characteristics and elements to be considered together.

(4) Review of proposed plan. Upon receipt of a forest practices application together with an alternate plan, the department will do all of the following:

(a) Appoint an interdisciplinary team((-));

(b) Establish a deadline for completion of the interdisciplinary team review that is consistent with the requirements of subsection (5) of this rule; and

(c) Within five business days of receipt of an application with an alternate plan, provide copies of the application and alternate plan to the departments of ecology and fish and wildlife, affected Indian tribes, the National Marine Fisheries Service, the United States Fish and Wildlife Service, and other parties that have expressed an interest in alternate plans in the area of the application. If the landowner is a small forest landowner (~~(under WAC 222-21-010(13))~~), copies should also be provided to the small forest landowner((-)) office.

(5) Interdisciplinary team.

(a) The department will determine the members invited to participate on an interdisciplinary team. Teams will include members with the qualifications necessary to evaluate the alternate plan. A representative of any affected Indian tribe, and departments of ecology and fish and wildlife will be invited to participate. Each team will include a representative of the landowner and a professional forester employed by the department and shall be led by a department employee.

(b) The interdisciplinary team will conduct a site visit and submit a recommendation to the department at least three days prior to the expiration of the application time limit in WAC 222-20-020. The interdisciplinary team may submit a recommendation without a site visit if a small forest landowner (~~(under WAC 222-21-010(13))~~) submitted the alternate plan using a template contained in board manual section 21 and is a low impact alternate plan and the team determines a visit is not necessary to evaluate the site specific application of a template or a low impact alternate plan.

(c) The recommendation of the interdisciplinary team shall indicate whether the alternate plan meets the approval standard, or what revisions are necessary to meet the approval standard. The team is intended to work with the landowner in an attempt to reach consensus on the efficacy of the alternate plan. In the absence of consensus, the team will forward reports reflecting the majority and minority opinions, or the landowner may elect to withdraw or revise the proposal.

(6) Approval standard. An alternate plan must provide protection for public resources at least equal in overall effectiveness to the protection provided in the act and rules.

(7) Approval, conditions, or disapproval. Upon receipt of the interdisciplinary team's recommendation, the department shall determine whether to approve, disapprove, or condition the application based on the approval standard. The department shall give substantial weight to the recommendations of the interdisciplinary team in cases where a consensus recommendation is forwarded. If the department disapproves or conditions a forest practices application with an alternate plan, the department will provide a written statement to the landowner explaining why the application was conditioned or denied.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-12-0402 *Assistance available for small forest landowners. (1) The small forest landowner office has

been established within the department to be a resource and focal point for small forest landowner concerns and policies. ((A small forest landowner is defined in WAC 222-21-010(13).)) The legislature recognized that the further reduction in harvestable timber owned by small forest landowners would further erode small forest ((landowner's)) landowners' economic viability and willingness or ability to keep the lands in forestry use, and, therefore, reduced the amount of habitat available for salmon recovery and conservation of other aquatic resources. The legislature has directed that office to assist small forest landowners in preparing alternate plans appropriate to small forest landowners. See RCW 76.13.100 and 76.13.110(3).

(2) Small forest landowners interested in alternate plans are encouraged to contact the small forest landowner office for assistance in preparing an alternate plan. The office may provide technical assistance in understanding and using board manual section 21 for alternate plans, assistance in developing an individualized alternate plan for the small forest landowner, and facilitation of small forest landowner interactions with the department, other state agencies, federal agencies, affected Indian tribes and the interdisciplinary team that may review the small forest landowner's alternate plan.

AMENDATORY SECTION (Amending WSR 11-12-009, filed 5/20/11, effective 6/20/11)

WAC 222-16-010 *General definitions. Unless otherwise required by context, as used in these rules:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Alluvial fan**" see "sensitive sites" definition.

"**Appeals board**" means the pollution control hearings board established in RCW 43.21B.010.

"**Aquatic resources**" means water quality, fish, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*) and their respective habitats.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d), 222-22-060(2), or 222-22-090.

"**Bankfull depth**" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the flood plain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section. (See board manual section 2.)

"**Bankfull width**" means:

(a) For streams - The measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bank-

full width is the sum of the individual channel widths along the cross-section (see board manual section 2).

(b) For lakes, ponds, and impoundments - Line of mean high water.

(c) For tidal water - Line of mean high tide.

(d) For periodically inundated areas of associated wetlands - Line of periodic inundation, which will be found by examining the edge of inundation to ascertain 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 character distinct from that of the abutting upland.

"**Basal area**" means the area in square feet of the cross section of a tree bole measured at 4 1/2 feet above the ground.

"**Bedrock hollows**" (colluvium-filled bedrock hollows, or hollows; also referred to as zero-order basins, swales, or bedrock depressions) means landforms that are commonly spoon-shaped areas of convergent topography within unchannelled valleys on hillslopes. (See board manual section 16 for identification criteria.)

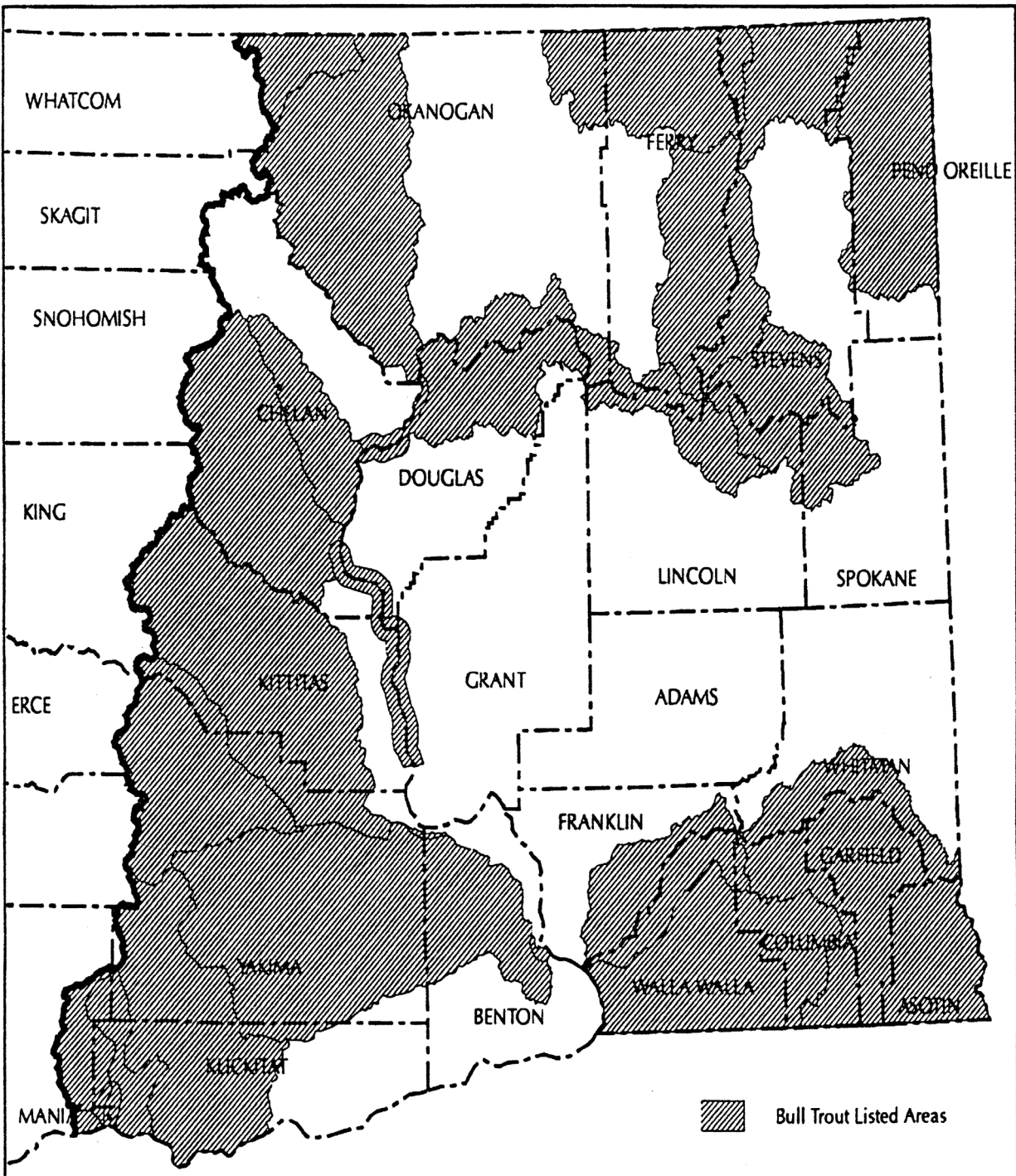
"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, Labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western hemlock, lodgepole pine, western red cedar, western white pine, Oregon crabapple, or quaking aspen, and may be associated with open water. This includes nutrient-poor fens. (See board manual section 8.)

"**Borrow pit**" means an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Bull trout habitat overlay**" means those portions of Eastern Washington streams containing bull trout habitat as identified on the department of fish and wildlife's bull trout map. Prior to the development of a bull trout field protocol and the habitat-based predictive model, the "bull trout habitat overlay" map may be modified to allow for locally based corrections using current data, field knowledge, and best professional judgment. A landowner may meet with the departments of natural resources, fish and wildlife and, in consultation with affected tribes and federal biologists, determine whether certain stream reaches have habitat conditions that are unsuitable for supporting bull trout. If such a determination is mutually agreed upon, documentation submitted to the department will result in the applicable stream reaches no longer being included within the definition of bull trout habitat overlay. Conversely, if suitable bull trout habitat is discovered outside the current mapped range, those waters will be included within the definition of "bull trout habitat overlay" by a similar process.

Bull Trout Overlay Map



"Channel migration zone (CMZ)" means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream, except as modified by a permanent levee or dike. For this purpose, near-term means the time scale required to grow a mature forest. (See board manual section 2 for descriptions and illustrations of CMZs and delineation guidelines.)

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"CRGNSA special management area" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"CRGNSA special management area guidelines" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: Provided, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Convergent headwalls" (or headwalls) means tear-drop-shaped landforms, broad at the ridgetop and terminating where headwaters converge into a single channel; they are broadly concave both longitudinally and across the slope, but may contain sharp ridges separating the headwater channels. (See board manual section 16 for identification criteria.)

"Conversion activities" means activities associated with conversions of forest land to land uses other than commercial timber operation. These activities may be occurring during or after timber harvest on forest land. They may include but are not limited to the following:

- Preparation for, or installation of, utilities on the forest practices activity site. The development or maintenance of existing rights of way providing utilities exclusively for other ownerships shall not be considered conversions of forest land (see WAC 222-20-010(5)).

- Any of, or any combination of, the following activities in preparation for nonforestry use of the land: Grading, filling, or stump removal.

- Preparation for, or construction of, any structure requiring local government approval.

- Construction of, or improvement of, roads to a standard greater than needed to conduct forest practices activities.

- Clearing for, or expansion of, rock pits for nonforest practices uses or developing surface mines.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local governmental entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative habitat enhancement agreement (CHEA)" see WAC 222-16-105.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or Commerce under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Cultural resources" means archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - One hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Date of receipt," as that term is defined in RCW 43.21B.001, means:

- (a) Five business days after the date of mailing; or

- (b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practices activities

which would reasonably be expected to cause significant damage to a public resource.

"Deep-seated landslides" means landslides in which most of the area of the slide plane or zone lies below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See board manual section 16 for identification criteria.)

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Desired future condition (DFC)" is a reference point on a pathway and not an endpoint for stands. DFC means the stand conditions of a mature riparian forest at 140 years of age, the midpoint between 80 and 200 years. Where basal area is the only stand attribute used to describe 140-year old stands, these are referred to as the "Target Basal Area."

"Diameter at breast height (dbh)" means the diameter of a tree at 4 1/2 feet above the ground measured from the uphill side.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"Drainage structure" means a construction technique or feature that is built to relieve surface runoff and/or intercepted ground water from roadside ditches to prevent excessive buildup in water volume and velocity. A drainage structure is not intended to carry any typed water. Drainage structures include structures such as: Cross drains, relief culverts, ditch diversions, water bars, or other such structures demonstrated to be equally effective.

"Eastern Washington" means the geographic area in Washington east of the crest of the Cascade Mountains from the international border to the top of Mt. Adams, then east of the ridge line dividing the White Salmon River drainage from the Lewis River drainage and east of the ridge line dividing the Little White Salmon River drainage from the Wind River drainage to the Washington-Oregon state line.

Eastern Washington Definition Map



"Eastern Washington timber habitat types" means elevation ranges associated with tree species assigned for the purpose of riparian management according to the following:

Timber Habitat Types	Elevation Ranges
ponderosa pine	0 - 2500 feet
mixed conifer	2501 - 5000 feet

Timber Habitat Types
high elevation

Elevation Ranges
above 5000 feet

"Edge" of any water means the outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Equipment limitation zone" means a 30-foot wide zone measured horizontally from the outer edge of the bank-full width of a Type Np or Ns Water. It applies to all perennial and seasonal nonfish bearing streams.

"Erodible soils" means those soils that, when exposed or displaced by a forest practices operation, would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities.

"Fish" means for purposes of these rules, species of the vertebrate taxonomic groups of *Cephalospidomorphi* and *Osteichthyes*.

"Fish habitat" means habitat, which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish, which could be recovered by restoration or management and includes off-channel habitat.

"Fish passage barrier" means any artificial in-stream structure that impedes the free passage of fish.

"Flood level - 100 year" means a calculated flood event flow based on an engineering computation of flood magnitude that has a 1 percent chance of occurring in any given year. For purposes of field interpretation, landowners may use the following methods:

Flow information from gauging stations;

Field estimate of water level based on guidance for "Determining the 100-Year Flood Level" in the forest practices board manual section 2.

The 100-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. For small forest landowner road maintenance and abandonment planning only, the term "forest land" excludes the following:

(a) Residential home sites. A residential home site may be up to five acres in size, and must have an existing structure in use as a residence;

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

"Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land. ~~((The following definitions apply only to road maintenance and abandonment planning:~~

~~(1) "Large forest landowner" is a forest landowner who is not a small forest landowner.~~

~~(2) "Small forest landowner" is a forest landowner who at the time of submitting a forest practices application or notification meets all of the following conditions:~~

~~• Has an average annual timber harvest level of two million board feet or less from their own forest lands in Washington state;~~

~~• Did not exceed this annual average harvest level in the three year period before submitting a forest practices application or notification;~~

~~• Certifies to the department that they will not exceed this annual harvest level in the ten years after submitting the forest practices application or notification.~~

However, the department will agree that an applicant is a small forest landowner if the landowner can demonstrate that the harvest levels were exceeded in order to raise funds to pay estate taxes or to meet equally compelling and unexpected obligations such as court-ordered judgments and extraordinary medical expenses.)

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber or forest biomass, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest road" means ways, lanes, roads, or driveways on forest land used since 1974 for forest practices. "Forest road" does not include skid trails, highways, or local government roads except where the local governmental entity is a forest landowner. For road maintenance and abandonment planning purposes only, "forest road" does not include forest roads used exclusively for residential access located on a small forest landowner's forest land.

"Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than 15 years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"Full bench road" means a road constructed on a side hill without using any of the material removed from the hillside as a part of the road. This construction technique is usually used on steep or unstable slopes.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Ground water recharge areas for glacial deep-seated slides" means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See board manual section 16 for identification criteria.)

"Headwater spring" means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Horizontal distance" means the distance between two points measured at a zero percent slope.

"Hyporheic" means an area adjacent to and below channels where interstitial water is exchanged with channel water and water movement is mainly in the downstream direction.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"Inner gorges" means canyons created by a combination of the downcutting action of a stream and mass movement on the slope walls; they commonly show evidence of recent movement, such as obvious landslides, vertical tracks of disturbance vegetation, or areas that are concave in contour and/or profile. (See board manual section 16 for identification criteria.)

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practices activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Large forest landowner" is a forest landowner who is not a small forest landowner.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

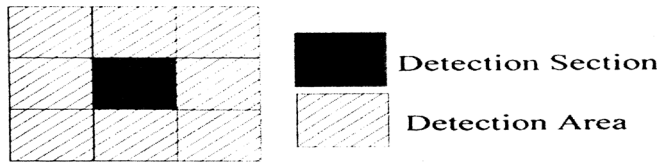
"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local governmental entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be com-

prised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.



"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Multiyear permit" means a permit to conduct forest practices which is effective for longer than ~~((two))~~ three years but no longer than five years.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

- Status 1: Pair or reproductive - A male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.
- Status 2: Two birds, pair status unknown - The presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.
- Status 3: Resident territorial single - The presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines

or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice of a conversion to a nonforestry use" means a notice issued by the department pursuant to RCW 76.09.060 (3)(b). A landowner who receives such notice is subject to the actions and requirements described in RCW 76.09.460 and 76.09.470.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- (a) A nest is located; or
- (b) Downy chicks or eggs or egg shells are found; or
- (c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- (d) Birds calling from a stationary location within the area; or
- (e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) and (2) above, the sites will be presumed to be occupied based upon observation of circling described in (1)(e), unless a two-year survey following the 2003 Pacific Seabird Group (PSG) protocol has been completed and an additional third-year of survey following a method listed below is completed and none of the behaviors or conditions listed in (1)(a) through (d) of this definition are observed. The landowner may choose one of the following methods for the third-year survey:

- (a) Conduct a third-year survey with a minimum of nine visits conducted in compliance with 2003 PSG protocol. If one or more marbled murrelets are detected during any of these nine visits, three additional visits conducted in compliance with the protocol of the first nine visits shall be added to the third-year survey. Department of fish and wildlife shall be consulted prior to initiating third-year surveys; or
- (b) Conduct a third-year survey designed in consultation with the department of fish and wildlife to meet site specific conditions.

(4) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

- (a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or
- (b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(5) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(6) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" means any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds 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 character distinct from that of the abutting upland, in respect to vegetation: Provided, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide, but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights of way, that portion of riparian management zones where scarification is not permitted, and

any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Preferred tree species" means the following species listed in descending order of priority for each timber habitat type:

Ponderosa pine habitat type	Mixed conifer habitat type
all hardwoods	all hardwoods
ponderosa pine	western larch
western larch	ponderosa pine
Douglas-fir	western red cedar
western red cedar	western white pine
	Douglas-fir
	lodgepole pine

"Public resources" means water, fish, and wildlife and in addition means capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian function" includes bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

"Riparian management zone (RMZ)" means:

(1) **For Western Washington**

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bank-full width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Western Washington Total RMZ Width
I	200'
II	170'
III	140'
IV	110'
V	90'

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-021(2).)

(2) For Eastern Washington

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Eastern Washington Total RMZ Width
I	130'
II	110'
III	90' or 100*
IV	75' or 100*
V	75' or 100*

* Dependent upon stream size. (See WAC 222-30-022.)

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-022(2).)

(3) **For exempt 20 acre parcels**, a specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"RMZ core zone" means:

(1) **For Western Washington**, the 50 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021.)

(2) **For Eastern Washington**, the thirty foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-022.)

"RMZ inner zone" means:

(1) **For Western Washington**, the area measured horizontally from the outer boundary of the core zone of a Type S or F Water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

(2) **For Eastern Washington**, the area measured horizontally from the outer boundary of the core zone 45 feet (for streams less than 15 feet wide) or 70 feet (for streams more than 15 feet wide) from the outer boundary of the core zone. (See WAC 222-30-022.)

"RMZ outer zone" means the area measured horizontally between the outer boundary of the inner zone and the

RMZ width as specified in the riparian management zone definition above. RMZ width is measured from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

"Road construction" means either of the following:

- (a) Establishing any new forest road;
- (b) Road work located outside an existing forest road prism, except for road maintenance.

"Road maintenance" means either of the following:

- (a) All road work located within an existing forest road prism;
- (b) Road work located outside an existing forest road prism specifically related to maintaining water control, road safety, or visibility, such as:
 - Maintaining, replacing, and installing drainage structures;
 - Controlling road-side vegetation;
 - Abandoning forest roads according to the process outlined in WAC 222-24-052(3).

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Sensitive sites" are areas near or adjacent to Type Np Water and have one or more of the following:

(1) **Headwall seep** is a seep located at the toe of a cliff or other steep topographical feature and at the head of a Type Np Water which connects to the stream channel network via overland flow, and is characterized by loose substrate and/or fractured bedrock with perennial water at or near the surface throughout the year.

(2) **Side-slope seep** is a seep within 100 feet of a Type Np Water located on side-slopes which are greater than 20 percent, connected to the stream channel network via overland flow, and characterized by loose substrate and fractured bedrock, excluding muck with perennial water at or near the surface throughout the year. Water delivery to the Type Np channel is visible by someone standing in or near the stream.

(3) **Type Np intersection** is the intersection of two or more Type Np Waters.

(4) **Headwater spring** means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

(5) **Alluvial fan** means a depositional land form consisting of cone-shaped deposit of water-borne, often coarse-sized sediments.

(a) The upstream end of the fan (cone apex) is typically characterized by a distinct increase in channel width where a stream emerges from a narrow valley;

(b) The downstream edge of the fan is defined as the sediment confluence with a higher order channel; and

(c) The lateral margins of a fan are characterized by distinct local changes in sediment elevation and often show disturbed vegetation.

Alluvial fan does not include features that were formed under climatic or geologic conditions which are not currently present or that are no longer dynamic.

"**Shorelines of the state**" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"**Side casting**" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"**Site class**" means a grouping of site indices that are used to determine the 50-year or 100-year site class. In order to determine site class, the landowner will obtain the site class index from the state soil survey, place it in the correct index range shown in the two tables provided in this definition, and select the corresponding site class. The site class will then drive the RMZ width. (See WAC 222-30-021 and 222-30-022.)

(1) For Western Washington

Site class	50-year site index range (state soil survey)
I	137+
II	119-136
III	97-118
IV	76-96
V	<75

(2) For Eastern Washington

Site class	100-year site index range (state soil survey)	50-year site index range (state soil survey)
I	120+	86+
II	101-120	72-85
III	81-100	58-71
IV	61-80	44-57
V	≤60	<44

(3) For purposes of this definition, the site index at any location will be the site index reported by the *Washington State Department of Natural Resources State Soil Survey*, (soil survey) and detailed in the associated forest soil summary sheets. If the soil survey does not report a site index for the location or indicates noncommercial or marginal forest land, or the major species table indicates red alder, the following apply:

(a) If the site index in the soil survey is for red alder, and the whole RMZ width is within that site index, then use site class V. If the red alder site index is only for a portion of the RMZ width, or there is on-site evidence that the site has historically supported conifer, then use the site class for conifer in the most physiographically similar adjacent soil polygon.

(b) In Western Washington, if no site index is reported in the soil survey, use the site class for conifer in the most physiographically similar adjacent soil polygon.

(c) In Eastern Washington, if no site index is reported in the soil survey, assume site class III, unless site specific information indicates otherwise.

(d) If the site index is noncommercial or marginally commercial, then use site class V.

See also section 7 of the board manual.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practices activities.

"**Small forest landowner**" means an owner of forest land who, at the time of submission of required documentation to the department:

- Has harvested no more than an average timber volume of two million board feet per year from their own forest lands in Washington state during the three years prior to submitting required documentation; and

- Certifies they do not expect to exceed that average timber volume for ten years after the department receives the required documentation.

However, a landowner who exceeded or expects to exceed those harvest limits may still be deemed a small forest landowner under circumstances described in RCW 76.09.-450.

"**Small forest landowner long-term application**" means a proposal from a small forest landowner to conduct forest practices activities for terms of ~~((three))~~ four to fifteen years. Small forest landowners ~~((as defined in WAC 222-21-010(13)))~~ are eligible to submit long-term applications if they meet the definition of "small forest landowner."

"**SOSEA goals**" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"**Spoil**" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"**Spotted owl conservation advisory group**" means a three-person advisory group designated by the board as follows: One person shall be a representative of Washington's forest products industry, one person shall be a representative of a Washington-based conservation organization actively involved with spotted owl conservation, and one person shall be a representative of the department's forest practices program. Members of the group shall have a detailed working knowledge of spotted owl habitat relationships and factors affecting northern spotted owl conservation. On an annual basis, beginning November 2010, the board will determine whether this group's function continues to be needed for spotted owl conservation.

"**Spotted owl dispersal habitat**" see WAC 222-16-085(2).

"**Spotted owl special emphasis areas (SOSEA)**" means the geographic areas as mapped in WAC 222-16-086.

Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Stream-adjacent parallel roads" means roads (including associated right of way clearing) in a riparian management zone on a property that have an alignment that is parallel to the general alignment of the stream, including roads used by others under easements or cooperative road agreements. Also included are stream crossings where the alignment of the road continues to parallel the stream for more than 250 feet on either side of the stream. Not included are federal, state, county or municipal roads that are not subject to forest practices rules, or roads of another adjacent landowner.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least forty percent of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Temporary road" means a forest road that is constructed and intended for use during the life of an approved forest practices application/notification. All temporary roads must be abandoned in accordance to WAC 222-24-052(3).

"Threaten public safety" means to increase the risk to the public at large from snow avalanches, identified in consultation with the department of transportation or a local government, or landslides or debris torrents caused or triggered by forest practices.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

"Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, timber does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33-.035.

"Unconfined stream" see WAC 222-23-010(2).

"Validation," as used in WAC 222-20-016, means the department's agreement that a small forest landowner has correctly identified and classified resources, and satisfactorily completed a roads assessment for the geographic area described in Step 1 of a long-term application.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the resource assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-080 and shall include resource assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity and the ongoing reviews and reanalyses completed under WAC 222-22-090.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the geographic area of Washington west of the Cascade crest and the drainages defined in Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only

green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Yarding corridor" means a narrow, linear path through a riparian management zone to allow suspended cables necessary to support cable logging methods or suspended or partially suspended logs to be transported through these areas by cable logging methods.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 11-12-009, filed 5/20/11, effective 6/20/11)

WAC 222-16-050 *Classes of forest practices. There are four classes of forest practices created by the act. All forest practices (including those in Classes I and II) on nonfederal forest lands must be conducted in accordance with the forest practices rules. The department determines the classification of each forest practices proposal.

(1) **"Class IV(~~—~~)-special."** Except as provided in WAC 222-16-051, application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be (~~conducted~~) approved.

***(a)** Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as critical habitat (state) of threatened or endangered species.

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than five (~~MBF~~) thousand board feet within any developed park recreation

area and park managed salvage of merchantable forest products.

***(d)** Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (d)(i) (~~below~~) of this subsection that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for (~~potential~~) potentially unstable slopes and landforms).

(i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See board manual section 16 for more descriptive definitions.)

(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than thirty-five degrees (seventy percent);

(B) Toes of deep-seated landslides, with slopes steeper than thirty-three degrees (sixty-five percent);

(C) Groundwater recharge areas for glacial deep-seated landslides;

(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or

(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.

(ii) The department will base its classification of the application or notification on professional knowledge of the area, information such as soils, geologic or hazard zonation maps and reports, review of approved watershed analysis mass wasting prescriptions according to WAC 222-22-090(6) or other information provided by the applicant.

(iii) An application would not be classified as Class IV-special for potentially unstable slopes or landforms under this subsection if:

(A) The proposed forest practice is located within a watershed administrative unit (WAU) that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with approved prescriptions from the watershed analysis; and

(C) The applicable prescriptions are specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

***(e)** Timber harvest, in a (~~watershed administrative unit~~) WAU not subject to an approved watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.

(f) Timber harvest or construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on the following except in **(f)(iv)** of this subsection:

(i) Archaeological sites or historic archaeological resources as defined in RCW 27.53.030; or

(ii) Historic sites eligible for listing on the National Register of Historic Places or the Washington Heritage Register as determined by the Washington state department of archaeology and historic preservation; or

(iii) Sites containing evidence of Native American cairns, graves, or glyptic records as provided for in chapters 27.44 and 27.53 RCW. The department of archaeology and historic preservation shall consult with affected Indian tribes in identifying such sites.

(iv) A forest practice would not be classified as Class IV-special under this subsection if:

(A) Cultural resources management strategies from an approved watershed analysis conducted under chapter 222-22 WAC are part of the proposed forest practices, and the landowner states this in the application; or

(B) A management plan agreed to by the landowner, the affected Indian tribe, and the department of archaeology and historic preservation is part of the proposed application, and the landowner states this in the application.

* (g) Forest practices subject to an approved watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan).

* (h) Filling or draining of more than 0.5 acre of a wetland.

(2) **"Class IV(—)-general."** Applications involving the following circumstances are ~~(")~~Class IV(—)-general~~(")~~ forest practices unless they are listed in ~~(")~~Class IV(—)-special~~(")~~. Forest practices applications classified Class IV-general are subject to the SEPA review process described in subsection (1) of this section.

~~(a) (Forest practices other than those in Class I) on lands platted after January 1, 1960, as provided in chapter 58.17 RCW;~~

~~(b))~~ Forest practices (other than those in Class I) on lands that ~~(have been or)~~ are being converted to another use;

~~((e))~~ (b) Forest practices ~~((which))~~ that would otherwise be Class III, but ~~((which))~~ are taking place on lands ~~((which))~~ that are not to be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and 222-34-050); or

~~((d))~~ (c) Where the regulatory authority for forest practices has not been transferred from the department to the local governmental entity pursuant to RCW 76.09.240(1), forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW, except where the forest landowner provides one of the following:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial ~~((forest products))~~ timber operations for ten years. This statement must be accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 or 84.34 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.

Upon receipt of an application, the department will determine the lead agency for purposes of compliance with

~~((the))~~ SEPA pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a thirty-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030(2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a ~~((license))~~ permit from a ~~((county/city))~~ local governmental entity acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable ~~((county/city))~~ local governmental entity under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the ~~((county/city))~~ local governmental entity is the lead agency for purposes of compliance with the SEPA.

(3) **"Class I."** ~~((Those))~~ Operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in ~~(")~~Class IV(—)-special~~(")~~ are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

* (b) Road maintenance except: Replacement of bridges and culverts across Type S, F or flowing Type Np Waters; or movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

* (c) Construction of landings less than one acre in size, if not within a shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (d) Construction of less than six hundred feet of road on a sideslope of forty percent or less if the limits of construction are not within the shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type S Water and does not involve disturbance of the beds or banks of any waters.

* (f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than five thousand board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any twelve-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

* (n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding forty percent or off-road use of tractors within the shorelines of a Type S Water, the riparian management zone of any Type F

Water, or the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*~~(o)~~ Ground application of chemicals, if not within the CRGNSA special management area. ~~((f))~~See WAC 222-38-020 and 222-38-030.~~((g))~~

*~~(p)~~ Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than forty contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within one hundred feet of lands used for farming, or within two hundred feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

~~(q)~~ Forestry research studies and evaluation tests by an established research organization.

*~~(r)~~ Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than forty percent:

~~(i)~~ Any forest practices within the boundaries of existing golf courses.

~~(ii)~~ Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

~~(iii)~~ Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

~~(s)~~ Removal of beaver structures from culverts on forest roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "**Class II.**" Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: Provided~~((;))~~ that no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW ~~((77.55.100))~~ 77.55.021) or is within a "shorelines of the state," or involves owner of perpetual timber rights subject to RCW 76.09.067 (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a ~~((^u))~~Class II~~((^u))~~ forest practice if it takes place on lands ~~((platted after January 1, 1960, as provided in chapter 58.17 RCW, or on lands))~~ that ~~((have been or))~~ are being converted to another use. Unless the conditions described in (f) or (g) of this subsection are met, no forest practice enumerated below involving timber harvest or road construction may be conducted as a ~~((^u))~~Class II~~((^u))~~ if it takes place within urban growth areas designated pursuant to chapter ~~((37.70A))~~ 36.70A RCW. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practices application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application;

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal; and

(iv) The application is not a multiyear permit that is located within an area subject to reanalysis of a watershed analysis under WAC 222-22-090(6).

*~~(c)~~ Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

~~(i)~~ Construction of advance fire trails.

~~(ii)~~ Opening a new pit of, or extending an existing pit by, less than one acre.

*~~(d)~~ Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than forty percent.

*~~(e)~~ Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than forty percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

~~(i)~~ West of the Cascade summit, partial cutting of forty percent or less of the live timber volume.

~~(ii)~~ East of the Cascade summit, partial cutting of five thousand board feet per acre or less.

~~(iii)~~ Salvage of dead, down, or dying timber if less than forty percent of the total timber volume is removed in any twelve-month period.

~~(iv)~~ Any harvest on less than forty acres.

~~(v)~~ Construction of six hundred or more feet of road, provided that the department shall be notified at least two business days before commencement of the construction.

*~~(f)~~ Forest practices involving timber harvesting or road construction listed in (a) through (e) of this subsection within urban growth areas (UGAs) designated pursuant to chapter 36.70A RCW, if the landowner provides one of the following:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial timber operations for ten years. This statement must be accompanied by either a written forest management plan acceptable to the department, or documentation that the land is enrolled under the provisions of chapter 84.33 or 84.34 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.

*(g) Forest practices listed in (a) through (e) of this subsection within UGAs, and where the regulatory authority for forest practices has been transferred to the local governmental entity pursuant to RCW 76.09.240(1), may nonetheless be Class II forest practices and regulated by the department if:

(i) The forest practice is on a landowner's ownership of contiguous forest land equal to or greater than twenty acres; and

(ii) The landowner provides documentation described in (f)(i) or (ii) of this subsection.

(5) "Class III." Forest practices not listed under Classes IV, I or II above are ((⁽²⁾))Class III(⁽²⁾) forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW (~~77.55.100~~) 77.55.021).

*(b) Those within the shorelines of the state other than those in a Class I forest practice.

*(c) Aerial application of insecticides, except where classified as a Class IV forest practice.

*(d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

*(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

*(f) All road construction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over one acre.

*(h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type S, F or flowing Type Np Waters; or

(ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

(i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding nineteen acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

*(n) Any filling of wetlands, except where classified as Class IV forest practices.

*(o) Multiyear permits.

*(p) Small forest landowner long-term applications that are not classified Class IV(~~(-)~~)-special or Class IV(~~(-)~~)-general, or renewals of previously approved Class III or IV long-term applications.

*(q) Forest practices involving timber harvest or road construction listed in (a) through (p) of this subsection within urban growth areas (UGAs) designated pursuant to chapter

36.70A RCW, if the landowner provides documentation described in subsection (4)(f)(i) or (ii) of this section.

*(r) Forest practices listed in (a) through (p) of this subsection within UGAs, and where the regulatory authority for forest practices has been transferred to the local governmental entity pursuant to RCW 76.09.240(1), may nonetheless be Class III forest practices and regulated by the department if:

(i) The forest practice is on a landowner's ownership of contiguous forest land equal to or greater than twenty acres; and

(ii) The landowner provides documentation described in subsection (4)(f)(i) or (ii) of this section.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-20-010 Applications and notifications—Policy. (1) **No Class II, III or IV forest practices** shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) **The department shall** prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(3) **Except as provided in ((~~subpart~~)) subsection (4) ((~~below~~)) of this section, applications and notifications** shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)).

(4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

(5) **Where an application** for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(6) **Transfer of the** approved application or notification to a new landowner, timber owner or operator requires writ-

ten notice by the former landowner or timber owner to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature, the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices rules as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(7) **Applications and notifications**, if complete, will be considered officially received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. The department will immediately provide a dated receipt to the applicant. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application.

(a) A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the Columbia River Gorge National Scenic Area Act (CRGNSA) special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within forty-five days.

(b) ~~((A#))~~ A complete environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications.

(c) A local governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that ~~((have been or))~~ will be converted to a use other than commercial timber ~~((production or on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW))~~ operations if the local governmental entity has jurisdiction and has an ordinance requiring such permit.

(d) A checklist road maintenance and abandonment plan is necessary information for all small forest landowners' applications or notifications for timber harvest (including salvage), unless exempt under WAC 222-24-0511, or unless the application is a small forest landowner long-term application which requires a roads assessment.

(8) **An operator's name**, if known, must be included on any forest practices application or notification. The landowner or timber owner must provide notice of hiring or change of operator to the department within forty-eight hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the

application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

(9) **Financial assurances** may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-20-015 Multiyear permits. Landowners may apply for multiyear permits to conduct forest practices for four or five years in the following situations:

(1) Where a watershed analysis has been approved for a WAU under WAC 222-22-080, ~~a landowner(((s)))~~ may apply for a multiyear permit. The information provided and level of detail ~~for the application~~ must be comparable to that required for a ~~((two-year))~~ three-year permit. At a minimum, the ~~applications for these permits~~ must include:

(a) A description of the forest practices to be conducted during the period requested for the permit, and a map(s) showing their locations; and

(b) Prescriptions must be identified where operations are proposed within or include areas of resource sensitivity.

(2) ~~((A landowner with an approved))~~ Where a road maintenance and abandonment plan (other than a checklist((+)) road maintenance and abandonment plan) has been approved under WAC 222-24-051, a landowner may apply for a multiyear permit to perform road maintenance, road abandonment, and/or associated right of way timber harvest, if the schedule for implementing the plan is longer than ~~((two))~~ three years.

(3) Where an alternate plan has been approved under WAC 222-12-0401, a landowner may apply for a multiyear permit to perform ~~((an approved))~~ the activities in the alternate plan.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-20-016 Small forest landowner long-term applications. (1) **Application.** A small forest landowner may submit a forest practices application that includes planned forest practices activities on all or part of a landowner's ownership within one of the department's geographic region boundaries. The application can be for terms of ~~((three))~~ four to fifteen years at the discretion of the landowner. The landowner will submit the application to the department in two steps.

(2) **Review of proposed application.**

(a) **Step 1: Resource and roads assessment review.** The landowner will submit the resource and roads assessment portion of the application. As part of the review, the department will determine any additional known resources or threats to public safety and initiate one or more site reviews in consultation with the department of ecology, the department of fish and wildlife, and the affected Indian tribes. The department will notify the landowner and the landowner's representative to attend the site review(s). Within forty-five days of receiving the complete assessment, the department

will notify the landowner in writing of its validation or rejection of the assessment. If rejected, the department will provide a written statement to the landowner explaining why the assessment was rejected.

(b) **Step 2: Resource protection strategies review.** The department will accept for review the resource protection strategies portion of the long-term application after the department validates Step 1. The required elements of Step 2 will include a description of proposed forest practices activities and strategies for protection of all resources identified in Step 1. The department will approve, condition, or disapprove Step 2 within forty-five days of receiving the complete Step 2 portion, except if a detailed environmental statement is necessary, additional time for approval or disapproval as specified in RCW 76.09.050 will be required. If disapproved, the department will provide a written statement to the landowner explaining why the proposed strategies were disapproved.

(3) **Activity notice.** At least five business days before a landowner starts an approved forest practices activity the landowner will submit to the department an activity notice in a format acceptable to the department.

(4) **Amendments to long-term applications.**

(a) The department may authorize nonsubstantial amendments as authorized in WAC 222-20-060.

(b) If the board considers new or amended rules to achieve resource protection objectives, the department and the board will do the following regarding existing approved long-term applications:

(i) The department, in consultation with the departments of ecology, fish and wildlife, and affected Indian tribes will review, and if necessary analyze the effects of approved long-term applications on the public resources the proposed rules are intended to protect.

(ii) The department will report the results of its review and/or analysis to the board prior to rule adoption.

(iii) Upon rule adoption, the board may direct the department to condition existing approved long-term applications to protect resources.

(iv) The department will notify impacted landowners in writing of the board's decision.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-20-020 Application time limits. (1) **When the department officially receives an application,** the department will approve, condition or disapprove it within thirty calendar days for Class III and Class IV forest practices, except:

(a) To the extent the department is prohibited from approving the application by the act.

(b) For ~~(C)~~Class IV~~(C)~~ applications when the department or the lead agency has determined that a detailed environmental statement must be made, the application must be approved, conditioned or disapproved within sixty days, unless the commissioner of public lands promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. At least ten days before promulgation of such an

order extending the time, the applicant shall be given written notice that the department is requesting such extension; giving the reasons the process cannot be completed within such period; and stating that the applicant may comment in writing to the commissioner of public lands or obtain an informal conference with the department regarding the proposed extension.

(c) When they involve lands described in (c)(i) ~~((through (iv))), (ii) or (iii))~~ of this subsection, the applicable time limit shall be no less than fourteen business days from transmittal to the local governmental entity unless the local governmental entity has waived its right to object or has consented to approval of the application:

(i) ~~(Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;~~

~~(ii))~~ Lands that ~~((have been or))~~ are being converted to another use;

~~((iii))~~ (ii) Lands ~~((which are))~~ that will not ~~((to))~~ be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and ~~((222-24-050))~~ 222-20-050); or

~~((iv))~~ (iii) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW.

(d) Applications for multiyear permits will be approved, conditioned, or disapproved within forty-five days of the department receiving a complete application, except if a detailed environmental statement is necessary, additional time for approval or disapproval as specified in RCW 76.09.050 will be required.

(e) Small forest landowner long-term applications will be reviewed in two steps as described in WAC 222-20-016. The department will review Step 1 and issue a decision within forty-five days of receiving a complete resource and roads assessment. The department will review and approve, condition, or disapprove Step 2 within forty-five days of receiving a complete resource protection strategies portion of the long-term application, except if a detailed environmental statement is necessary, additional time for approval or disapproval as specified in RCW 76.09.050 will be required.

(2) ~~((Unless the local governmental entity has waived its rights under the act or consents to approval, the department shall not approve an application involving lands platted after January 1, 1960, as provided in chapter 58.17 RCW, or lands that have been or are being converted to another use until at least fourteen business days from the date of transmittal to the local governmental entity.~~

~~(3))~~ **Where a notification** is submitted for operations which the department determines involve Class III or IV forest practices, the department shall issue a stop work order or take other appropriate action. If the operations were otherwise in compliance with the act and forest practices rules, no penalty should be imposed for those operations which occurred prior to the enforcement action: Provided~~((:))~~ that no damage to a public resource resulted from such operations, and the operations commenced more than five days from receipt by the department of the notification.

~~((4))~~ (3) **If the department** fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved

and the operation may commence except that this provision shall not apply where:

(a) The local governmental entity objects and the application involves lands (~~(platted after January 1, 1960, as provided in chapter 58.17 RCW, or lands)~~) that (~~(have been or)~~) are being converted to a use other than commercial timber operations where the (~~(county's)~~) local governmental entity's right of objection is fourteen business days which may be longer than the approval time limit.

(b) The department is prohibited from approving the application by the act.

(c) Compliance with the State Environmental Policy Act requires additional time.

~~((5))~~ (4) If seasonal field conditions prevent the department from being able to properly evaluate the application, the department may disapprove the application until field conditions allow for an on-site review.

AMENDATORY SECTION (Amending WSR 07-20-044, filed 9/26/07, effective 10/27/07)

WAC 222-20-040 Approval conditions. (1) **Whenever an approved** application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two business days before the commencement of actual operations.

(2) **All approvals are** subject to any conditions stipulated on the approved application and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

(3) Local governmental entity conditions—Class IV-general applications.

(a) RCW 76.09.240(~~((4))~~) (6) allows a local governmental entity to exercise limited land use planning or zoning authority on certain types of forest practices. This subsection is designed to ensure that local governmental entities exercise this authority consistent with chapter 76.09 RCW and the rules in Title 222 WAC. The system provided for in this subsection is optional.

(b) This subsection only applies to (~~(Class IV-general)~~) applications on lands that (~~(have been or)~~) are being converted to a use other than commercial timber (~~(production or to Class IV-general applications on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW)~~) operations.

(c) After determining that an application is Class IV-general, the department shall transmit the applications to the appropriate local governmental entity within two business days from the date the department officially receives the application.

(d) The department shall condition the application consistent with the request of the local governmental entity if:

(i) The local governmental entity has adopted a clearing and/or grading ordinance that addresses the items listed in (e) of this subsection and requires a permit;

(ii) The local governmental entity has issued a permit under the ordinance in (i) that contains the requested conditions; and

(iii) The local governmental entity has entered into an interagency agreement with the department consistent with WAC 222-50-030 addressing enforcement of forest practices.

(e) The local governmental entity conditions may only cover:

(i) The location and character of open space and/or vegetative buffers;

(ii) The location and design of roads;

(iii) The retention of trees for bank stabilization, erosion prevention, and/or storm water management; or

(iv) The protection of critical areas designated pursuant to chapter 36.70A RCW.

(f) The local governmental entity (~~(conditions)~~) shall (~~(be filed)~~) file its conditions with the department within twenty-nine days of the department's official receipt of the application or within fourteen business days of the transmittal of the application to the local governmental entity or one day before the department acts on the application, whichever is later.

(g) The department shall incorporate local governmental entity conditions consistent with this subsection as conditions of the forest practices approval.

(h) Any exercise of local governmental entity authority consistent with this subsection shall be considered consistent with the forest practices rules in this chapter.

(4) Lead agency mitigation measures.

(a) This subsection is designed to specify procedures for a mitigated DNS process that are consistent with chapters 76.09 and 43.21C RCW and the rules in Title 222 WAC and chapter 197-11 WAC.

(b) This subsection applies to all Class IV applications in which the department is not the lead agency under the State Environmental Policy Act. (See WAC 197-11-758.)

(c) The department shall transmit the application to the lead agency within two business days from the date the department officially receives the application.

(d) The lead agency may specify mitigation measures pursuant to WAC 197-11-350.

(e) The lead agency threshold determination and any mitigation measures must be filed with the department within the later of twenty-nine days of the official receipt of the application by the department, fourteen business days of the transmittal of the application to the lead agency if the lead agency is a local governmental entity; or one day before the department acts on the application.

(f) Unless the applicant clarifies or changes the application to include mitigation measures specified by the lead agency, the department must disapprove the application or require an environmental impact statement. (See WAC 197-11-738.)

(g) If the department does not receive a threshold determination from the lead agency by the time it must act on the application, the department shall disapprove the application.

(5) Small forest landowner approval conditions. The department shall not disapprove a small forest landowner's application or notification on the basis that fish passage bar-

riers have not been removed or replaced if the landowner has committed to participate in the department's family forest fish passage program for:

(a) Any barriers on their forest roads located within the boundaries of their application or notification; and

(b) Any barriers on their forest roads needed for their proposed forest practice, but located outside the boundaries of the application or notification.

(6) CRGNSA special management area.

(a) **Policy.** The states of Oregon and Washington have entered into a Compact preauthorized by Congress to implement the CRGNSA Act, 16 U.S.C. §§ 544, et seq. chapter 43.97 RCW, 16 U.S.C. § 544c. The purposes of the CRGNSA Act are:

(i) To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(ii) To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1). 16 U.S.C. § 544a.

The forest practices rules addressing forest practices in the CRGNSA special management area recognize the intent of Congress and the states expressed in the CRGNSA Act and Compact and the intent of the Washington state legislature in the Forest Practices Act. These rules are designed to recognize the public interest in sound natural resource protection provided by the Act and the Compact, including the protection to public resources, recreation, and scenic beauty. These rules are designed to achieve a comprehensive system of laws and rules for forest practices in the CRGNSA special management area which avoids unnecessary duplication, provides for interagency input and intergovernmental and tribal coordination and cooperation, considers reasonable land use planning goals contained in the CRGNSA management plan, and fosters cooperation among public resources managers, forest landowners, tribes and the citizens.

(b) The CRGNSA special management area guidelines shall apply to all forest practices within the CRGNSA special management area. Other forest practices rules also apply to these forest practices. To the extent these other rules are inconsistent with the guidelines, the more restrictive requirement controls. To the extent there is an incompatibility between the guidelines and another rule, the guidelines control. Copies of the guidelines can be obtained from the department's Southeast and Pacific Cascade regional offices and Olympia office, as well as from the Columbia River Gorge commission and the U.S. Forest Service.

(c) The department shall review and consider the U.S. Forest Service review statement and shall consult with the U.S. Forest Service and the Columbia River Gorge commission prior to making any determination on conditioning an application or notification within the CRGNSA special management area.

AMENDATORY SECTION (Amending WSR 10-23-077, filed 11/15/10, effective 12/16/10)

WAC 222-20-050 Conversion of forest land to non-forest use. (1) If an application to harvest signed by the landowner indicates that within three years after completion, the forest land will be converted to a specified active use ~~((which))~~ that is incompatible with a use other than commercial timber ((growing)) operations, the reforestation requirements of ~~((these rules))~~ chapter 222-34 WAC shall not apply, and the information relating to reforestation on the application form need not be supplied. However, if ~~((such))~~ the specified active use is not initiated within three years after ~~((such))~~ the harvest is completed, the reforestation requirements ~~((see chapter 222-34 WAC))~~ shall apply and ~~((such))~~ reforestation shall be completed within one additional year.

(2) ~~((For Class II, III, and IV special forest practices, if a landowner wishes to maintain the option for conversion to a use other than commercial timber growing, the landowner may request the appropriate local governmental entity to approve a conversion option harvest plan. This plan, if approved by the local governmental entity and followed by the landowner, shall release the landowner from the six-year moratorium on future development, but does not create any other rights. The conversion option harvest plan shall be attached to the application or notification as a condition. Violation of the conversion option harvest plan will result in the reinstatement of the local governmental entity's right to the six-year moratorium. Reforestation requirements will not be waived in the conversion option harvest plan. Reforestation rules shall apply at the completion of the harvest operation as required in chapter 222-34 WAC. Nothing herein shall preclude the local governmental entity from charging a fee to approve such a plan. (See RCW 76.09.060 (3)(b)(i).))~~

~~((3) If the application or notification does not state that any land covered by the application or notification will be or is intended to be converted to a specified active use incompatible with commercial timber growing, or if the forest practice takes place without a required application or notification, then the provisions of RCW 76.09.060 (3)(b)(i) regarding the six-year moratorium apply.~~

~~((4) A notice of a conversion to a nonforestry use issued by the department under the provisions of RCW 76.09.060 (3)(b) may be appealed to the appeals board in accordance with RCW 43.21B.110 and 43.21B.230.))~~ If a landowner who did not state an intent to convert decides to convert to a nonforestry use within six years of receiving an approved forest practices application or notification, the landowner must:

(a) Stop all forest practices activities on the parcels subject to conversion;

(b) Contact the department of ecology and the applicable local governmental entity to begin the permitting process; and

(c) Notify the department and withdraw any related applications or notifications, or request a new application for conversion.

Upon request from the local governmental entity, the department will provide the status of the landowner's related applications and notifications, and any final orders or decisions.

NEW SECTION**WAC 222-20-051 Conversion option harvest plans.**

(1) For Class II, III, and IV-special forest practices, if a landowner wishes to maintain the option to convert forest land to a use other than commercial timber operations, the landowner may request the appropriate local governmental entity to approve a conversion option harvest plan.

(2) If a local governmental entity approves a plan, the landowner must attach it to the forest practices application or notification.

(3) The plan will be a condition of the approved application or notification.

(4) Violation of the plan will result in the development prohibitions or the conditions described in RCW 76.09.460.

(5) Reforestation requirements will not be waived regardless of the existence of a conversion option harvest plan.

NEW SECTION

WAC 222-20-052 Notice of conversion to nonforestry use. (1) Under the provisions of RCW 76.09.060 (3)(b), if harvest takes place without an approved application or notification, or the landowner did not state that any land covered by the application or notification is intended to be converted to a use other than commercial timber operations, then the department and the appropriate local governmental entity will follow the process described in subsections (2) and (3) of this section.

(2) When the department or local governmental entity becomes aware of conversion activities the department will send to the department of ecology and the appropriate local governmental entities the following documents:

(a) A notice of conversion to nonforestry use;

(b) A copy of the applicable forest practices application or notification, if any; and

(c) Copies of any applicable outstanding final orders or decisions issued by the department related to the forest practices application or notification.

(3) When a local governmental entity receives a notice of conversion to a nonforestry use from the department, it will follow the requirements of RCW 76.09.460.

(4) A notice of a conversion to a nonforestry use issued by the department under the provisions of RCW 76.09.060 (3)(b) and this section may be appealed to the appeals board in accordance with RCW 43.21B.110 and 43.21B.230.

AMENDATORY SECTION (Amending WSR 11-12-009, filed 5/20/11, effective 6/20/11)

WAC 222-20-080 Application and notification expiration. (1) The approval given by the department to an application to conduct a forest practice shall be effective for a term of ~~((two))~~ three years from the date of approval, with the following exceptions:

(a) Multiyear permits are effective for ~~((three to))~~ four or five years.

(b) Small forest landowner long-term applications are effective for terms of ~~((three))~~ four to fifteen years.

(2) A notification is effective for a term of ~~((two))~~ three years beginning five days from the date it is officially received.

(3) An application or notification may be renewed for one additional three-year term by submitting a renewal in a form acceptable to the department.

WSR 13-01-026**PERMANENT RULES****ENVIRONMENTAL AND****LAND USE HEARINGS OFFICE**

[Filed December 11, 2012, 9:55 a.m., effective January 11, 2013]

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

Purpose: To correct physical location address, e-mail address and phone contact information; remove duplicative sentence; clarify number of board members and provide phone numbers for service by telefacsimile.

Citation of Existing Rules Affected by this Order: Amending five sections of the growth management hearing[s] board's administrative code: WAC 242-03-060, 242-03-015, 242-03-115, 242-03-230, and 242-03-240.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 12-19-080 on September 18, 2012.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

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

Date Adopted: December 5, 2012.

Kathleen D. Mix
ELUHO Director
Nina Carter
Administrative Officer
Growth Management
Hearings Board

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-015 Regional panels. (1) Each petition for review that is filed with the growth management hearings board shall be heard and decided by a regional panel of growth management hearings board members. From the seven board members, regional panels shall be constituted as follows:

(a) Central Puget Sound region. A three-member Central Puget Sound panel shall be selected to hear matters pertaining to cities and counties located within the region comprised of King, Pierce, Snohomish, and Kitsap counties.

(b) Eastern Washington region. A three-member Eastern Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains.

(c) Western Washington region. A three-member Western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the Central Puget Sound region. Skamania County, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the Western Washington region or the Eastern Washington region.

(2)(a) Each regional panel selected to hear and decide cases shall consist of three board members, at least a majority of whom shall reside within the region in which the case arose, unless such regional members cannot sit on a particular case because of recusal or disqualification, or unless the board administrative officer determines that there is an emergency including, but not limited to, the unavailability of a board member due to illness, absence, vacancy, or significant workload imbalance.

(b) The presiding officer of each case shall reside within the region in which the case arose, unless the board administrative officer determines that there is an emergency.

(c) Except as provided otherwise in (d) of this subsection, each regional panel shall:

(i) Include at least one member admitted to practice law in this state;

(ii) Include at least one member who has been a city or county elected official; and

(iii) Reflect the political composition of the board.

(d) The requirements of (c) of this subsection may be waived by the board administrative officer due to member unavailability, significant workload imbalances, or other reasons.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-060 Board office. (1) The administration of the board is consolidated in one office - The office of the growth management hearings board:

Growth Management Hearings Board

((319 7th Avenue S.E., Suite 103))

1111 Israel Road S.W., Suite 301

((Olympia)) Tumwater, WA 98501

P.O. Box 40953

Olympia, WA 98504-0953

((360-586-0260)) 360-664-9170

((360-664-8975)) 360-586-2253 Fax

e-mail: ((eastern@ew.gmhb.wa.gov))

eastern@eluh.wa.gov

e-mail: ((western@www.gmhb.wa.gov))

western@eluh.wa.gov

e-mail: ((central@eps.gmhb.wa.gov))

central@eluh.wa.gov

web site: www.gmhb.wa.gov

(2) The filing of all petitions, briefs, exhibits, and other documents related to any proceeding before a regional panel shall be made to the office of the growth management hearings board, with specific indication of the appropriate regional panel's name - Eastern, Western, or Central Puget Sound.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-115 Authorized representatives. (1) Notice of appearance. Any person acting in a representative capacity on behalf of a party or participant shall file a notice of appearance with the board and shall serve a copy on all other parties. This requirement shall apply to attorneys as well as to other duly authorized representatives of parties. ((This requirement shall apply to attorneys as well as to other duly authorized representatives of parties.)) A person listed in a petition for review as representing petitioners need not file a notice of appearance.

(2) Substitution. In the event of a change in representative or attorney, a notice of substitution must be filed with the board and a copy served on all other parties before the change in representative shall become effective.

AMENDATORY SECTION (Amending WSR 12-05-110, filed 2/22/12, effective 3/24/12)

WAC 242-03-230 Petition for review—Filing and service. (1) Filing a Petition for Review. A petition for review shall be filed with the board by electronic mail, as provided in WAC 242-03-240, unless a petitioner does not have the technological capacity to do so. The original and three copies of the petition for review shall be filed with the board personally, or by first class, certified, or registered mail. Filings may also be made with the board by telefacsimile transmission as provided in WAC 242-03-240. A petition for review is deemed filed on the date the board receives it by electronic mail or by telefacsimile transmission by 5:00 p.m. provided that the original and three copies are postmarked and mailed on the same date as the electronic filing. See WAC 242-03-060 for contact information.

(2) Service of petition for review.

(a) A copy of the petition for review shall be served upon the named respondent(s) and must be received by the respondent(s) on or before the date filed with the board. Service of the petition for review may be by mail or personal service, so long as the petition is received by respondent on or before the date filed with the board.

(b) When a county is a respondent, the petition for review shall be served on the county auditor in noncharter counties and the agent designated by the legislative authority in charter counties. When a city is a respondent, the mayor, city manager, or city clerk shall be served. When the state of Washington is a respondent, the office of the attorney general shall be served at its main office in Olympia unless service upon the state is otherwise provided by law. In a challenge to

the adoption of, or amendment to, a shoreline master program approved by the department of ecology, the department of ecology shall be named as a respondent and served.

(3) Proof of service shall be filed with the board pursuant to WAC 242-03-245.

(4) The board may dismiss a case for failure to substantially comply with this section.

AMENDATORY SECTION (Amending WSR 12-05-110, filed 2/22/12, effective 3/24/12)

WAC 242-03-240 Filing and service of all other papers. (1) Filing of papers: All pleadings and briefs shall be filed with the board by electronic mail unless a petitioner does not have the technological capacity to do so. The original and three copies of all documents shall be filed with the board personally, or by first class, certified, or registered mail and must be postmarked and mailed on the same date as the electronic filing. Filings less than fifteen pages may be made by telefacsimile transmission. The original and three copies must be mailed on the same date as the telefacsimile transmission to be deemed filed.

Filings made by electronic mail and/or telefacsimile transmission shall be deemed filed upon actual receipt during office hours of 8:00 a.m. to 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's telefacsimile machine or receiving computer shall be presumptive evidence of the date and time of receipt of transmission. All papers will be deemed filed with the board on the date received by electronic mail provided that the original document and three copies are mailed and postmarked on the same date as the telefacsimile transmission or electronic mail filing. See WAC 242-03-060 for contact information.

(2) Service: Parties shall serve copies of all filings on all other named parties by electronic mail, on or before the date filed with the board, unless a party lacks technical capability. Service is accomplished when the document is transmitted electronically, or, by agreement among the parties or exception granted by the presiding officer, is deposited in the mail and postmarked by the required date.

WSR 13-01-034

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 11, 2012, 2:53 p.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: The department of agriculture is amending chapter 16-232 WAC in order to restrict the use of two insecticides in the Grayland cranberry growing area to prevent water contamination. The Grayland cranberry growers instituted the best management practices contained in the rule voluntarily over the past fifteen years. The rule requires all growers institute the best management practices, thus creating a fair playing field and preventing further contamination of waterways in Grayland and prevent further more expensive restrictions to growers and the cranberry industry.

Statutory Authority for Adoption: RCW 17.21.030.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 12-20-071 on October 3, 2012.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 6, Amended 0, Repealed 0.

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

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

Date Adopted: December 11, 2012.

Dan Newhouse
Director

NEW SECTION

WAC 16-232-400 What areas of Grays Harbor and Pacific counties are under order for use restricted pesticides? The area under order shall include all lands in Grays Harbor and Pacific counties lying within Township 15 North, Range 11 West, Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32; Township 16 North, Range 11 West, Sections 19, 30, 31, and 32; and Township 16 North, Range 12 West, Sections 24 and 25.

NEW SECTION

WAC 16-232-410 What pesticides are restricted in the area under order? All formulations containing the active ingredient O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl) phosphorothioate, commonly known as chlorpyrifos or the active ingredient O,O-diethyl O-(isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, commonly known as diazinon are use restricted pesticides when applied to cranberries in the area under order.

NEW SECTION

WAC 16-232-420 What standards are adopted by WSDA? (1) The department adopts the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Practices Standards "Drainage Water Management" CODE 554 (Sept. 2011); "SubSurface Drain" CODE 606 (Sept. 2011); "Surface Drain, Main or Lateral" CODE 608 (Nov. 2010); and "Underground Outlet" CODE 620 (Nov. 2010) as requirements for and restrictions on the use of pesticides containing chlorpyrifos or diazinon when applied to cranberries in the area under order.

(2) Copies of the adopted USDA NRCS Practice Standards can be requested by mail from: U.S. Department of Agriculture, 1400 Independence Ave., S.W., Washington,

D.C. 20250 or from your local NRCS Office or can be found on the WSDA web site at: <http://www.agr.wa.gov/pestfert/>.

NEW SECTION

WAC 16-232-430 What are the restrictions on the use of pesticides containing chlorpyrifos or diazinon for ditches? (1) Chlorpyrifos or diazinon shall not be applied to cranberries unless all ditches immediately adjacent to the application and all other ditches that will be contacted by the application are adequately protected to prevent entry of chlorpyrifos or diazinon at the time of application.

(2) For the purpose of subsection (1) of this section, "adequately protected" means:

(a) Ditches are cribbed and covered according to USDA NRCS Practice Standards "Drainage Water Management" CODE 554 (Sept. 2011); "SubSurface Drain" CODE 606 (Sept. 2011); "Surface Drain, Main or Lateral" CODE 608 (Nov. 2010); and "Underground Outlet" CODE 620 (Nov. 2010), or one of the functional equivalents below.

(i) A functional equivalent for ditch side walls is the installation of side walls with rigid material capable of maintaining ditch integrity for a period of no less than ten years.

(ii) A functional equivalent for ditch coverings is the installation of ditch coverings using rigid material capable of preventing entry of chlorpyrifos or diazinon either through chemigation activities or run-off from irrigation activities into ditches as described in subsection (1) of this section.

(b) Drainage culverts are installed and constructed according to USDA NRCS Practice Standard "Underground Outlet" CODE 620 (Nov. 2010).

(3) All ditches and culverts shall be maintained and kept in good repair as needed in order to achieve the requirements of subsection (1) of this section.

(4) Upon request, the department shall be provided with all available information related to the design, construction, and materials used to protect the ditch as described in subsection (2) of this section.

NEW SECTION

WAC 16-232-440 What are the restrictions on the use of pesticides containing chlorpyrifos or diazinon near source water? (1) All source water used for chemigation including, but not limited to, open reservoirs, ponds, or sumps must be protected from contact with chlorpyrifos or diazinon during an application unless the source water is demonstrated to have no hydraulic connection with drainage ditches or culverts.

(2) For the purpose of subsection (1) of this section, "hydraulic connection" means, water can flow between one source (either ground or surface water) to another source (either ground or surface water). Connection can be natural or manmade.

(3) For the purpose of subsection (1) of this section, "protected" means:

(a) Placement of a barrier or covering system over the source water in a manner that ensures spray from the nozzles do not contact the source water; or

(b) Design, placement, operation, and maintenance of irrigation sprayheads or nozzles in a manner that ensures spray from the nozzles does not contact the source water.

(4) Hydraulic connections will be determined as needed, by the department upon review of the source water system design.

NEW SECTION

WAC 16-232-450 Can a variance to the requirements of this order be obtained in an emergency? (1) In the event of an emergency, as determined by the director, the department may issue permits for the use of chlorpyrifos or diazinon in the use restricted area in variation of any restrictions as defined in WAC 16-232-430 or 16-232-440. An emergency under this section may be declared if the director determines that the situation is:

(a) Urgent and unexpected; and

(b) The risk and amount of economic harm to the crop substantially outweighs the risk and amount of damage likely to occur to the environment if a variance permit is issued.

(2) Application for a permit may be made by e-mail to compliance@agr.wa.gov or by mail, fax, or in person to the Washington State Department of Agriculture, Pesticide Management Division, Natural Resources Building (NRB), Second Floor, 1111 Washington St. S.E., P.O. Box 42589, Olympia, WA 98504-2560, FAX: 360-902-2093. Permits will not be granted by telephone.

(3) The department may make on-site monitoring of the application a condition of any permit. A representative of the department may condition, deny, or revoke a permit at any time, if the representative determines that the situation at the application site creates an unreasonable risk. In determining whether the situation at the application site creates an unreasonable risk, the representative may consider all relevant factors such as temperature, tides, precipitation, application type, pesticide formulation and application equipment, ditch cover condition, endangered species restrictions, air inversions, time of day, burning restrictions, wind direction, wind velocity, topography, and type and condition of application equipment.

**WSR 13-01-038
PERMANENT RULES
NOXIOUS WEED
CONTROL BOARD**

[Filed December 12, 2012, 7:48 a.m., effective January 12, 2013]

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

Purpose: The Washington state noxious weed list provides the basis for noxious weed control efforts for county and district weed control boards as well as other entities. This rule-making order amends chapter 16-750 WAC by: Adding French broom, *Genista monspessulana*, as a Class A noxious weed; adding tall hawkweed, *Hieracium piloselloides*, as a Class B noxious weed; adding common barberry, *Berberis vulgaris*, as a Class C noxious weed; adding common teasel, *Dipsacus fullonum*, as a Class C noxious weed; amending the Class C listing of Japanese eelgrass, *Zostera*

japonica; amending WAC 16-750-004 noxious weed region descriptions from ten regions to six regions; updating designations of Class B noxious weeds based on new regions and distribution information; and reclassifying eleven Class B noxious weeds to Class C noxious weeds.

Citation of Existing Rules Affected by this Order: Amending WAC 16-750-004, 16-750-005, 16-750-011, and 16-750-015.

Statutory Authority for Adoption: Chapter 17.10 RCW.
Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 12-20-082 on December 11, 2013 [October 3, 2012].

Changes Other than Editing from Proposed to Adopted Version: There were no significant differences between the rule language, as proposed, and the rule language, as adopted, other than minor grammatical, punctuation, and layout corrections. In addition, the phrase "on commercially managed shellfish beds only" was inadvertently retained in the original OTS draft but was removed in the second OTS draft.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: December 11, 2013.

Virgil Butch Klaveano
Chairman

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

WAC 16-750-004 Noxious weed region descriptions.

The state of Washington is divided into ~~((ten))~~ six regions for the purpose of designating Class B noxious weeds.

(1) Region 1 description. A region ~~((consisting of all lands lying within the boundaries of Clallam and Jefferson counties.~~

~~(2) Region 2 description. A region consisting of all lands lying within the boundaries of Whatcom, Skagit, Snohomish, San Juan, and Island counties.~~

~~(3) Region 3 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Okanogan County.~~

~~(b) All lands lying within the boundaries of Chelan and Douglas counties and north of Highway 2.~~

~~(4) Region 4 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Ferry, Stevens, and Pend Oreille counties.~~

~~(b) All lands lying within the boundaries of Spokane County and north of the Spokane River.~~

~~(5) Region 5 description. A region consisting of all lands lying within the boundaries of Grays Harbor, Mason, Kitsap, Thurston, Pierce, and King counties.~~

~~(6) Region 6 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Kittitas and Grant counties.~~

~~(b) All lands lying within the boundaries of Chelan and Douglas counties and south of Highway 2.~~

~~(c) All lands lying within the boundaries of Yakima County and north of Highway 12 from the Yakima—Lewis County line to Yakima and north of Highway 82 from Yakima to the Yakima—Kittitas County line.~~

~~(d) All lands lying within the boundaries of Ranges 28E, 29E, and 30E of Adams County.~~

~~(7) Region 7 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Lincoln and Whitman counties.~~

~~(b) All lands lying within the boundaries of Spokane County and south of the Spokane River.~~

~~(c) All lands lying within the boundaries of Ranges 31E, 32E, 33E, 34E, 35E, 36E, 37E, and 38E of Adams County.~~

~~(8) Region 8 description. A region consisting of all lands lying within the boundaries of Pacific, Lewis, Wahkiakum, Cowlitz, Skamania, and Clark counties.~~

~~(9) Region 9 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Benton and Klickitat counties.~~

~~(b) All lands lying within the boundaries of Yakima County and south of Highway 12 from the Yakima—Lewis County line to Yakima and south of Highway 82 from Yakima to the Yakima—Kittitas County line.~~

~~(c) All lands lying within the boundaries of Franklin County and west of Highway 395.~~

~~(10) Region 10 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Asotin, Garfield, Columbia, and Walla Walla counties.~~

~~(b) All lands lying within the boundaries of Franklin County and east of Highway 395.) containing all lands lying within the boundaries of Clallam, Jefferson, Grays Harbor, Mason, and Pacific counties.~~

(2) Region 2 description. A region containing all lands lying within the boundaries of San Juan, Whatcom, Skagit, Snohomish, Island, King, Kitsap, Pierce, and Thurston counties.

(3) Region 3 description. A region containing all lands lying within the boundaries of Lewis, Cowlitz, Wahkiakum, Clark, and Skamania counties.

(4) Region 4 description. A region containing all lands lying within the boundaries of Chelan, Douglas, Okanogan, Ferry, Stevens, and Pend Oreille counties.

(5) Region 5 description. A region containing all lands lying within the boundaries of Klickitat, Yakima, Kittitas, Grant, Adams, Lincoln, Spokane, and Whitman counties.

(6) Region 6 description. A region containing all lands lying within the boundaries of Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties.

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Scientific Name</u>
((bean-caper, Syrian	<i>Zygophyllum fabago</i>	<u>broom, Spanish</u>	<i>Spartium junceum</i>
blueweed, Texas	<i>Helianthus ciliaris</i>	<u>buffalobur</u>	<i>Solanum rostratum</i>
brome, false	<i>Brachypodium sylvaticum</i>	<u>common crupina</u>	<i>Crupina vulgaris</i>
broom, Spanish	<i>Spartium junceum</i>	<u>cordgrass, common</u>	<i>Spartina anglica</i>
buffalobur	<i>Solanum rostratum</i>	<u>cordgrass, dense flower</u>	<i>Spartina densiflora</i>
bulrush, ricefield	<i>Schoenoplectus mucronatus</i>	<u>cordgrass, salt meadow</u>	<i>Spartina patens</i>
clary, meadow	<i>Salvia pratensis</i>	<u>cordgrass, smooth</u>	<i>Spartina alterniflora</i>
clematis, oriental	<i>Clematis orientalis</i>	<u>dyers woad</u>	<i>Isatis tinctoria</i>
cordgrass, common	<i>Spartina anglica</i>	<u>eggleaf spurge</u>	<i>Euphorbia oblongata</i>
cordgrass, dense flower	<i>Spartina densiflora</i>	<u>false brome</u>	<i>Brachypodium sylvaticum</i>
cordgrass, salt meadow	<i>Spartina patens</i>	<u>floating primrose-willow</u>	<i>Ludwigia peploides</i>
cordgrass, smooth	<i>Spartina alterniflora</i>	<u>flowering rush</u>	<i>Butomus umbellatus</i>
crupina, common	<i>Crupina vulgaris</i>	<u>garlic mustard</u>	<i>Alliaria petiolata</i>
flax, spurge	<i>Thymelaea passerina</i>	<u>giant hogweed</u>	<i>Heracleum mantegazzianum</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>	<u>goatsrue</u>	<i>Galega officinalis</i>
geranium, shiny	<i>Geranium lucidum</i>	<u>hawkweed, European</u>	<i>Hieracium sabaudum</i>
goatsrue	<i>Galega officinalis</i>	<u>hawkweed, yellow devil</u>	<i>Hieracium floribundum</i>
hawkweed, European	<i>Hieracium sabaudum</i>	<u>hydrilla</u>	<i>Hydrilla verticillata</i>
hawkweed, yellow devil	<i>Hieracium floribundum</i>	<u>johnsongrass</u>	<i>Sorghum halepense</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>	<u>knapweed, bighead</u>	<i>Centaurea macrocephala</i>
hydrilla	<i>Hydrilla verticillata</i>	<u>knapweed, Vochin</u>	<i>Centaurea nigrescens</i>
johnsongrass	<i>Sorghum halepense</i>	<u>kudzu</u>	<i>Pueraria montana var. lobata</i>
knapweed, bighead	<i>Centaurea macrocephala</i>	<u>meadow clary</u>	<i>Salvia pratensis</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>	<u>oriental clematis</u>	<i>Clematis orientalis</i>
kudzu	<i>Pueraria montana var. lobata</i>	<u>purple starthistle</u>	<i>Centaurea calcitrapa</i>
milfoil, variable-leaf	<i>Myriophyllum heterophyllum</i>	<u>reed sweetgrass</u>	<i>Glyceria maxima</i>
mustard, garlic	<i>Alliaria petiolata</i>	<u>ricefield bulrush</u>	<i>Schoenoplectus mucronatus</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>	<u>sage, clary</u>	<i>Salvia sclarea</i>
primrose-willow, floating	<i>Ludwigia peploides</i>	<u>sage, Mediterranean</u>	<i>Salvia aethiops</i>
rush, flowering	<i>Butomus umbellatus</i>	<u>shiny geranium</u>	<i>Geranium lucidum</i>
sage, clary	<i>Salvia sclarea</i>	<u>silverleaf nightshade</u>	<i>Solanum elaeagnifolium</i>
sage, Mediterranean	<i>Salvia aethiops</i>	<u>spurge flax</u>	<i>Thymelaea passerina</i>
spurge, eggleaf	<i>Euphorbia oblongata</i>	<u>Syrian bean-caper</u>	<i>Zygophyllum fabago</i>
starthistle, purple	<i>Centaurea calcitrapa</i>	<u>Texas blueweed</u>	<i>Helianthus ciliaris</i>
sweetgrass, reed	<i>Glyceria maxima</i>	<u>thistle, Italian</u>	<i>Carduus pycnocephalus</i>
thistle, Italian	<i>Carduus pycnocephalus</i>	<u>thistle, milk</u>	<i>Silybum marianum</i>
thistle, milk	<i>Silybum marianum</i>	<u>thistle, slenderflower</u>	<i>Carduus tenuiflorus</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>	<u>variable-leaf milfoil</u>	<i>Myriophyllum heterophyllum</i>
velvetleaf	<i>Abutilon theophrasti</i>	<u>velvetleaf</u>	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>)	<u>wild four o'clock</u>	<i>Mirabilis nyctaginea</i>
<u>broom, French</u>	<i>Genista monspessulana</i>		

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

		Will be a "Class B designate" in all lands lying within:	
(1)	((Name		
(1)	alyssum, hoary <i>Berteroa incana</i>	(a)	regions 1, 2, 5, 6, 8, 9, 10
		(b)	Chelan and Douglas counties of region 3
		(c)	Okanogan County of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North
		(d)	Ferry County of region 4 south of Hwy 20
		(e)	Adams and Whitman counties of region 7.
(2)	archangel, yellow <i>Lamiastrum galeobdolon</i>	(a)	Clallam County of region 1
		(b)	San Juan County of region 2
		(c)	Cowlitz and Skamania counties of region 8.
(3)	arrowhead, grass-leaved <i>Sagittaria graminea</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
		(b)	region 2 except Lake Roesiger, Lake Serene, Lake Loma and Echo Lake in Snohomish County
		(c)	region 5 except Mason Lake in Mason County.
(4)	blackgrass <i>Alopecurus myosuroides</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
		(b)	Ferry, Stevens, Pend Oreille counties of region 4
		(c)	Adams County of region 7.
(5)	blueweed <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
		(b)	region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(6)	broom, Scotch <i>Cytisus scoparius</i>		regions 3, 4, 6, 7, 9, 10.
(7)	bryony, white <i>Bryonia alba</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	region 7 except Whitman County
		(c)	Franklin and Asotin counties of region 10.
(8)	bugloss, common <i>Anchusa officinalis</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
		(b)	region 4 except Stevens and Spokane counties
		(c)	Lincoln, Adams, and Whitman counties of region 7.
(9)	bugloss, annual <i>Anchusa arvensis</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	Lincoln and Adams counties
		(c)	Whitman County except ranges 43 through 46 East of Townships 16 through 20 North
		(d)	Asotin County of region 10.
(10)	butterfly bush <i>Buddleja davidii</i>	(a)	Pend Oreille County of region 4

(Name	Will be a "Class B designate" in all lands lying within:
(11) camelthorn <i>Alhagi maurorum</i>	<ul style="list-style-type: none"> (b) Grays Harbor County, and that portion of Thurston County lying below the ordinary high water mark of the Nisqually River in region 5 (c) Kittitas County of region 6 (d) Lincoln County of region 7. (a) regions 1, 2, 3, 4, 5, 7, 8, 9 (b) region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County (c) Franklin, Columbia, Garfield, and Asotin counties of region 10 (d) an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.
(12) carrot, wild <i>Daucus carota</i>	<ul style="list-style-type: none"> (a) regions 3, 7 (except where intentionally cultivated) (b) Spokane and Ferry counties of region 4 (except where intentionally cultivated) (c) region 6, except Yakima County (except where intentionally cultivated) (d) region 9, except Yakima County (except where intentionally cultivated) (e) region 10, except Walla Walla County (except where intentionally cultivated).
(13) eatsear, common <i>Hypochaeris radicata</i>	<ul style="list-style-type: none"> (a) regions 3, 4, 6, 7, 10 (b) region 9 except Klickitat County.
(14) chervil, wild <i>Anthriscus sylvestris</i>	<ul style="list-style-type: none"> (a) regions 1, 3, 4, 5, 6, 7, 9, 10 (b) region 2 except Guemes Island in Skagit County (c) region 8 except Clark County.
(15) cinquefoil, sulfur <i>Potentilla recta</i>	<ul style="list-style-type: none"> (a) regions 1, 3, 8, 10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston County (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.
(16) daisy, oxeye <i>Leucanthemum vulgare</i>	<ul style="list-style-type: none"> (a) regions 7, 10 (b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.

		Will be a "Class B designate" in all lands lying within:	
(Name			
(17)	elodea, Brazilian <i>Egeria densa</i>	(a)	regions 3, 4, 6, 7, 9, 10
		(b)	Lewis County of region 8
		(c)	Clallam County of region 1
		(d)	King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
(18)	fanwort <i>Cabomba caroliniana</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except T8N, R3W of Cowlitz County.
(19)	fennel, common <i>Foeniculum vulgare</i> (except var. <i>azoricum</i>)	(a)	regions 3, 4, 6, 7, 8, 9, 10
		(b)	region 1 except the incorporated areas of Port Townsend
		(c)	region 2 except the incorporated areas of Anacortes and Mount Vernon
		(d)	region 5 except King and Kitsap counties.
(20)	fielderess, Austrian <i>Rorippa austriaca</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
(21)	floating heart, yellow <i>Nymphoides peltata</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
(22)	gorse <i>Ulex europaeus</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10
		(b)	Skagit, Island, and Whatcom counties of region 2
		(c)	Thurston, Kitsap, Pierce, and King counties of region 5
		(d)	Wahkiakum, Clark, Skamania, Cowlitz, and Lewis counties of region 8.
(23)	hawkweed, mouseear <i>Hieracium pilosella</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 except Thurston County
		(c)	Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.
(24)	hawkweed, orange <i>Hieracium aurantiacum</i>	(a)	regions 1, 3, 6, 9, 10
		(b)	Skagit County of region 2
		(c)	Ferry County of region 4
		(d)	Pierce, Thurston and King counties of region 5
		(e)	Lincoln and Adams counties of region 7
		(f)	Lewis County of region 8.
(25)	hawkweed, polar <i>Hieracium atratum</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 outside the boundaries of Mt. Rainier National Park.
(26)	hawkweed, queen devil <i>Hieracium glomeratum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	Ferry County of region 4.
(27)	hawkweed, smooth <i>Hieracium laevigatum</i>	(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10
		(b)	San Juan, Island, and Skagit counties of region 2.
(28)	hawkweed, yellow <i>Hieracium caespitosum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 10
		(b)	region 4 except Stevens and Pend Oreille counties
		(c)	region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Kllickitat County.
(29)	helmet, policeman's <i>Impatiens glandulifera</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
		(b)	region 2 except Whatcom County

		Will be a "Class B designate" in all lands lying within:	
(Name			
(30)	herb Robert <i>Geranium robertianum</i>	(e)	region 5 except Thurston County; regions 3, 4, 6, 7, 9, 10
(31)	houndstongue <i>Cynoglossum officinale</i>	(a)	Kittitas County of region 6
		(b)	region 5
		(c)	Douglas and Chelan counties of regions 3 and 6.
(32)	indigobush <i>Amorpha fruticosa</i>	(a)	regions 1, 2, 3, 4, 5, 6
		(b)	regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream
		(c)	regions 8, 9, and 10 except within 200 feet of the Columbia River.
(33)	knapweed, black <i>Centaurea nigra</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
		(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
		(c)	region 6 except Kittitas County
		(d)	region 8 except Clark County.
(34)	knapweed, brown <i>Centaurea jacea</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
		(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
		(c)	region 6 except Kittitas County
		(d)	region 8 except Clark County.
(35)	knapweed, diffuse <i>Centaurea diffusa</i>	(a)	regions 1, 2, 5, 8
		(b)	Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.
		(c)	Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6
		(d)	Franklin County of regions 9 and 10.
(36)	knapweed, meadow <i>Centaurea jacea x nigra</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
		(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
		(c)	region 6 except Kittitas County
		(d)	region 8 except Clark County.

(Name	Will be a "Class B designate" in all lands lying within:
(37) knapweed, Russian <i>Acroptilon repens</i>	(a) regions 1, 2, 5, 7, 8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intereounty Weed District No. 52 (e) region 10 except Franklin County.
(38) knapweed, spotted <i>Centaurea stoebe</i>	(a) regions 1, 2, 3, 5, 6, 9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield (e) region 10 except Garfield County.
(39) knotweed, Bohemian <i>Polygonum x bohemicum</i>	(a) Kittitas County of region 6 (b) Chelan and Douglas counties of regions 3 and 6 (c) Pend Oreille County of region 4 (d) Asotin County of region 10.
(40) knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4 (c) Asotin County of region 10.
(41) knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4 (c) Lewis County of region 8 (d) Asotin County of region 10.
(42) knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) Kittitas County of region 6 (b) Chelan and Douglas counties of regions 3 and 6 (c) Pend Oreille County of region 4 (d) Asotin County of region 10.
(43) koehia <i>Kochia scoparia</i>	(a) Regions 1, 2, 5, 8 (b) Pend Oreille County of region 4 (c) Kittitas County of region 6.
(44) laurel, spurge <i>Daphne laureola</i>	(a) regions 3, 4, 6, 7, 8, 9, 10 (b) San Juan, Snohomish and Skagit counties of region 2 (c) Grays Harbor and Mason counties of region 5.
(45) lawnweed <i>Soliva sessilis</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King and Thurston counties.
(46) lepyrodielis <i>Lepyrodiclis holosteoides</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moseow, Idaho.
(47) loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King County

(Name	Will be a "Class B designate" in all lands lying within:
(48)	loosestrife, purple <i>Lythrum salicaria</i>
	(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
	(a) regions 1, 4, 7, 8
	(b) region 2 except Snohomish County
	(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
	(d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5
	(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
	(f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections
	(g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed
	(h) region 9 except Benton County
	(i) region 10 except Walla Walla County
	(j) Intereounty Weed Districts No. 51 and No. 52.
(49)	loosestrife, wand <i>Lythrum virgatum</i>
	(a) regions 1, 4, 7, 8
	(b) region 2 except Snohomish County
	(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
	(d) region 5 except King County
	(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
	(f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed
	(g) region 9 except Benton County
	(h) region 10 except Walla Walla County
	(i) Intereounty Weed Districts No. 51 and No. 52.
(50)	nutsedge, yellow <i>Cyperus esculentus</i>
	(a) regions 1, 2, 3, 4, 5, 7, 8
	(b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.
	(c) region 9 except:

(Name	Will be a "Class B designate" in all lands lying within:
(51)	<p>oxtongue, hawkweed <i>Pieris hieracioides</i></p>
(52)	<p>parrotfeather <i>Myriophyllum aquaticum</i></p>
(53)	<p>pepperweed, perennial <i>Lepidium latifolium</i></p>
(54)	<p>poison hemlock <i>Conium maculatum</i></p>
(55)	<p>primrose, water <i>Ludwigia hexapetala</i></p>
(56)	<p>puncturevine <i>Tribulus terrestris</i></p>
	<p>(i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowae Pass Road follow said road north to the intersection of Konnowae Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.</p> <p>(ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County</p>
	<p>(d) region 10 except Walla Walla County.</p> <p>(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10</p> <p>(b) region 8 except Skamania County.</p> <p>(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10</p> <p>(b) region 8 except Clark, Cowlitz, and Wahkiakum counties.</p> <p>(a) regions 1, 2, 3, 4, 5, 7, 8, 10</p> <p>(b) Intercounty Weed Districts No. 51 and 52</p> <p>(c) Kittitas County of region 6</p> <p>(d) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.</p> <p>(a) Clallam County and that area lying within Port Townsend city limits in Jefferson County of region 1</p> <p>(b) Snohomish and San Juan counties of region 2</p> <p>(c) Pend Oreille County of region 4</p> <p>(d) Kitsap and Thurston counties of region 5</p> <p>(e) Kittitas County of region 6</p> <p>(f) Lincoln County of region 7</p> <p>(g) Clark County of region 8.</p> <p>(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10</p> <p>(b) region 8 except T8N, R3W, S14 of Cowlitz County.</p> <p>(a) Skagit County of region 2</p> <p>(b) Kittitas County of region 6</p> <p>(c) Adams County</p> <p>(d) Clallam County of region 1.</p>

	((Name	Will be a "Class B designate" in all lands lying within:
(57)	ragwort, tansy <i>Senecio jacobaea</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
(58)	reed, common, nonnative genotypes <i>Phragmites australis</i>	(a) region 1 (b) Island, San Juan and Snohomish counties of region 2 (c) Okanogan County of region 3 (d) Pend Oreille and Stevens counties of region 4 (e) region 5 except Grays Harbor and Pierce counties (f) Kittitas County of region 6 (g) Yakima County of regions 6 and 9 (h) Lincoln County of region 7 (i) Clark and Lewis counties of region 8 (j) Klickitat County of region 9 (k) Asotin County of region 10.
(59)	Salteedar <i>Tamarix ramosissima</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004 (b) region 6 except Grant County, unless intentionally established prior to 2004 (c) region 9 except Benton and Franklin counties, unless intentionally established prior to 2004 (d) region 10 except Franklin County, unless intentionally established prior to 2004.
(60)	sandbur, longspine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Adams County of region 6 except for that area lying within Intereounty Weed District No. 52 (c) Intereounty Weed District No. 51 (d) Kittitas County of region 6 (e) Asotin County of region 10.
(61)	skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8 (b) Franklin County except T13N, R36E; and T14N, R36E (c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.

(Name	Will be a "Class B designate" in all lands lying within:
	<ul style="list-style-type: none"> (d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest (e) Stevens County north of Township 33 North of region 4 (f) Ferry and Pend Oreille counties of region 4 (g) region 9 except the Dallesport area in Klickitat County lying within Township 2N, Ranges 13 and 14 (h) Asotin County of region 10 (i) Garfield County south of Highway 12 (j) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road (k) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
(62) sowthistle, perennial <i>Sonchus arvensis ssp. arvensis</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 4, 7, 8, 9, 10 (b) Adams County of region 6 (c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
(63) spurge, leafy <i>Euphorbia esula</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except as follows: <ul style="list-style-type: none"> (i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County (ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
(64) spurge, myrtle <i>Euphorbia myrsinites L</i>	<ul style="list-style-type: none"> (a) Pend Oreille County of region 4 (b) Along the Asotin, Grande Ronde, and Snake rivers and in all other areas that are not an actively cultivated garden in Asotin County of region 10.
(65) starthistle, yellow <i>Centaurea solstitialis</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 5, 6, 8 (b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25 (c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (d) Franklin County (e) region 9 except Klickitat County (f) lands west of Shumaker Grade and south of Mill Road in Asotin County.

	(Name	Will be a "Class B designate" in all lands lying within:
(66)	Swainsonpea <i>Sphaerophysa sal-sula</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 4, 5, 7, 8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning (d) Weed District No. 3 of Grant County (e) Adams County of region 6.
(67)	thistle, musk <i>Carduus nutans</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Spokane and Pend Oreille counties.
(68)	thistle, plumeless <i>Carduus-acanthoides</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except those areas within Stevens County lying north of State Highway 20.
(69)	thistle, Scotch <i>Onopordum-acanthium</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (c) Franklin County.
(70)	toadflax, Dalmatian <i>Linaria dalmatica ssp. dalmatica</i>	<ul style="list-style-type: none"> (a) regions 1, 2, 5, 8, 10 (b) Douglas County of region 3 lying south of T25N and west of R25E (c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E (d) Kittitas, Chelan, Douglas, and Adams counties of region 6 (e) Intereounty Weed District No. 51 (f) Weed District No. 3 of Grant County (g) Lincoln and Adams counties (h) The western two miles of Spokane County of region 7 (i) region 9 except as follows: <ul style="list-style-type: none"> (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County.
(71)	watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	<ul style="list-style-type: none"> (a) regions 1, 9, 10 (b) Okanogan and Chelan counties of region 3 (c) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4 (d) Chelan and Adams counties of region 6 (e) region 7 except Spokane County (f) region 8 except within 200 feet of the Columbia River.

<u>(Name</u>		<u>Will be a "Class B designate" in all lands lying within:</u>	
(72)	willow herb, hairy <i>Epilobium hirsutum</i>	(a)	regions 1, 3, 4
		(b)	region 2 except Whatcom and Island counties
		(c)	region 5 except Thurston County
		(d)	region 6 except Grant County
		(e)	region 7 except Whitman County
		(f)	region 8 except Skamania County
		(g)	Yakima County of region 9
		(h)	region 10 except Franklin and Walla Walla counties.)
<u>Name</u>		<u>Will be a "Class B designate" in all lands lying within:</u>	
(1)	<u>blueweed, <i>Echium vulgare</i></u>	(a)	<u>regions 1, 2, 3, 4, 6</u>
		(b)	<u>region 5, except Spokane County</u>
(2)	<u>Brazilian elodea, <i>Egeria densa</i></u>	(a)	<u>region 1, except Grays Harbor and Pacific counties</u>
		(b)	<u>region 2, except Kitsap and Snohomish counties</u>
		(c)	<u>King County of region 2, except lakes Dolloff, Fenwick, Union, Washington, and Sammamish, and the Sammamish River</u>
		(d)	<u>region 3, except Wahkiakum County</u>
		(e)	<u>regions 4, 5, and 6</u>
(3)	<u>bugloss, annual, <i>Anchusa arvensis</i></u>	(a)	<u>regions 1, 2, 3, 4, and 6</u>
		(b)	<u>region 5, except Spokane County</u>
(4)	<u>bugloss, common, <i>Anchusa officinalis</i></u>	(a)	<u>regions 1, 2, 3, 4, and 6</u>
		(b)	<u>region 5, except Spokane County</u>
(5)	<u>butterfly bush, <i>Buddleja davidii</i></u>	(a)	<u>The portion of Thurston County lying below the ordinary high-water mark of the Nisqually River in region 2</u>
		(b)	<u>Cowlitz County of region 3</u>
(6)	<u>camelthorn, <i>Alhagi maurorum</i></u>	(a)	<u>regions 1, 2, 3, 4, and 5</u>
		(b)	<u>region 6, except Walla Walla County</u>
(7)	<u>common fennel, <i>Foeniculum vulgare</i></u>	(a)	<u>region 1, except Jefferson County</u>
		(b)	<u>region 2, except King and Skagit counties</u>
		(c)	<u>region 3, except Clark County</u>
		(d)	<u>regions 4, 5, and 6</u>
(8)	<u>common reed, <i>Phragmites australis</i> (nonnative genotypes only)</u>	(a)	<u>regions 1, 2, 3, and 4</u>
		(b)	<u>region 5, except Grant County</u>
		(c)	<u>Asotin, Columbia, and Garfield counties of region 6</u>
(9)	<u>Dalmatian toadflax, <i>Linaria dalmatica ssp. dalmatica</i></u>	(a)	<u>regions 1, 2, and 3</u>
		(b)	<u>Adams and Lincoln counties of region 5</u>
		(c)	<u>Benton and Walla Walla counties of region 6</u>
(10)	<u>Eurasian watermilfoil, <i>Myriophyllum spicatum</i></u>	(a)	<u>region 1, except Pacific and Mason counties</u>
		(b)	<u>Island and San Juan counties of region 2</u>
		(c)	<u>Clark and Cowlitz counties of region 3</u>
		(d)	<u>Chelan and Okanogan counties of region 4</u>
		(e)	<u>Adams and Lincoln counties of region 5</u>
		(f)	<u>Asotin, Columbia, and Garfield counties of region 6</u>
(11)	<u>fanwort, <i>Cabomba caroliniana</i></u>	(a)	<u>regions 2, 4, 5, and 6</u>
		(b)	<u>region 1, except Grays Harbor</u>

		<u>Will be a "Class B designate" in all lands lying within:</u>	
<u>Name</u>			
		(c)	<u>region 3, except Cowlitz County</u>
(12)	<u>gorse, <i>Ulex europaeus</i></u>	(a)	<u>region 1, except Grays Harbor and Pacific counties</u>
		(b)	<u>regions 2, 3, 4, 5, 6</u>
(13)	<u>grass-leaved arrowhead, <i>Sagittaria graminea</i></u>	(a)	<u>region 1, except Mason County</u>
		(b)	<u>region 2, except Snohomish County</u>
		(c)	<u>regions 3, 4, 5, and 6</u>
(14)	<u>hairy willow-herb, <i>Epilobium hirsutum</i></u>	(a)	<u>regions 1 and 3</u>
		(b)	<u>region 2, except Thurston and Whatcom counties</u>
		(c)	<u>region 5, except Klickitat County</u>
		(d)	<u>Asotin, Columbia, and Garfield counties of region 6</u>
(15)	<u>hawkweed oxtongue, <i>Picris hieracioides</i></u>	(a)	<u>regions 1, 2, 4, 5, and 6</u>
		(b)	<u>region 3, except Skamania County</u>
(16)	<u>hawkweed, mouseear, <i>Hieracium pilosella</i></u>	(a)	<u>region 1, except Grays Harbor County</u>
		(b)	<u>region 2, except Pierce and Thurston counties</u>
		(c)	<u>region 3, except Lewis County</u>
		(d)	<u>regions 4 and 6</u>
		(e)	<u>region 5, except Klickitat County</u>
(17)	<u>hawkweed, orange, <i>Hieracium aurantiacum</i></u>	(a)	<u>regions 1, 3, and 6</u>
		(b)	<u>region 2, except Whatcom County</u>
		(c)	<u>region 4, except Pend Oreille and Stevens counties</u>
		(d)	<u>region 5, except Kittitas and Spokane counties</u>
(18)	<u>hawkweed, queen-devil, <i>Hieracium glomeratum</i></u>	(a)	<u>regions 1, 2, 3, 5, and 6</u>
		(b)	<u>region 4, except Pend Oreille and Stevens counties</u>
(19)	<u>hawkweed, smooth, <i>Hieracium laevigatum</i></u>	(a)	<u>regions 1, 3, 5, and 6</u>
		(b)	<u>region 2, except Skagit and Whatcom counties</u>
		(c)	<u>region 4, except Pend Oreille and Stevens counties</u>
(20)	<u>hawkweed, tall, <i>Hieracium piloselloides</i></u>	(a)	<u>regions 1, 2, 3, 5, and 6</u>
		(b)	<u>region 4, except Pend Oreille and Stevens counties</u>
(21)	<u>hawkweed, yellow, <i>Hieracium caespitosum</i></u>	(a)	<u>region 1, except Pacific County</u>
		(b)	<u>regions 2 and 6</u>
		(c)	<u>region 3, except Cowlitz County</u>
		(d)	<u>region 4, except Pend Oreille and Stevens counties</u>
		(e)	<u>region 5, except Klickitat and Spokane counties</u>
(22)	<u>herb-Robert, <i>Geranium robertianum</i></u>		<u>regions 4, 5, and 6</u>
(23)	<u>hoary alyssum, <i>Berteroa incana</i></u>	(a)	<u>regions 1, 2, 3, and 6</u>
		(b)	<u>All areas south of highway 20 in Ferry County of region 4</u>
		(c)	<u>All areas in Okanogan County of region 4, except Ranges 29-31 East of Townships 37-40 North</u>
		(d)	<u>region 5, except Klickitat County</u>
(24)	<u>houndstongue, <i>Cynoglossum officinale</i></u>	(a)	<u>regions 1, 2, and 3</u>
		(b)	<u>Chelan County of region 4</u>
		(c)	<u>Yakima, Grant and Adams counties of region 5</u>
		(d)	<u>Benton County of region 6</u>
(25)	<u>indigobush, <i>Amorpha fruticosa</i></u>	(a)	<u>regions 1, 2, and 4</u>
		(b)	<u>Lewis and Skamania counties of region 3</u>

		<u>Will be a "Class B designate" in all lands lying within:</u>	
<u>Name</u>			
(26)	<u>knapweed, black, <i>Centaurea nigra</i></u>	(c)	<u>region 5, except Klickitat County regions 1, 2, 3, 4, 5, and 6</u>
(27)	<u>knapweed, brown, <i>Centaurea jacea</i></u>		<u>regions 1, 2, 3, 4, 5, and 6</u>
(28)	<u>knapweed, diffuse, <i>Centaurea diffusa</i></u>	(a)	<u>region 1, except Mason County</u>
		(b)	<u>regions 2 and 3</u>
		(c)	<u>Adams County of region 5</u>
(29)	<u>knapweed, meadow, <i>Centaurea jacea x nigra</i></u>	(a)	<u>regions 1 and 3</u>
		(b)	<u>region 2, except Pierce and Whatcom counties</u>
		(c)	<u>Thurston County of region 2, except below the ordinary high water mark of the Nisqually River</u>
		(d)	<u>region 4, except Pend Oreille County</u>
		(e)	<u>region 5, except Kittitas and Klickitat counties</u>
		(f)	<u>region 6, except Franklin and Walla Walla counties</u>
(30)	<u>knapweed, Russian, <i>Acroptilon repens</i></u>	(a)	<u>regions 1, 2, and 3</u>
		(b)	<u>Ferry and Pend Oreille counties of region 4</u>
		(c)	<u>Lincoln, Spokane, and Whitman counties of region 5</u>
		(d)	<u>Adams County of region 5, except for the area west of High- way 17 and north of Highway 26</u>
		(e)	<u>Asotin and Garfield counties of region 6</u>
(31)	<u>knapweed, spotted, <i>Centaurea stoebe</i></u>	(a)	<u>region 1, except Grays Harbor</u>
		(b)	<u>region 2, except Whatcom County</u>
		(c)	<u>region 3</u>
		(d)	<u>Ferry County of region 4</u>
		(e)	<u>Adams, Grant and Yakima counties of region 5</u>
		(f)	<u>region 6, except Columbia and Walla Walla counties</u>
(32)	<u>knotweed, Bohemian, <i>Polygonum x bohemicum</i></u>	(a)	<u>Island County of region 2</u>
		(b)	<u>Cowlitz and Skamania counties of region 3</u>
		(c)	<u>region 4, except Pend Oreille and Stevens counties</u>
		(d)	<u>regions 5, except Whitman and Yakima counties</u>
		(e)	<u>region 6</u>
(33)	<u>knotweed, giant, <i>Polygonum sachalinense</i></u>	(a)	<u>region 2, except King, Pierce, and Snohomish counties</u>
		(b)	<u>region 3, except Lewis County</u>
		(c)	<u>regions 4, 5, and 6</u>
(34)	<u>knotweed, Himalayan, <i>Polygonum polystachyum</i></u>	(a)	<u>region 1, except Pacific County</u>
		(b)	<u>region 2, except King and Pierce counties</u>
		(c)	<u>Cowlitz, Lewis and Skamania counties of region 3</u>
		(d)	<u>region 4, except Stevens County</u>
		(e)	<u>regions 5 and 6</u>
(35)	<u>knotweed, Japanese, <i>Polygonum cuspidatum</i></u>	(a)	<u>Island, San Juan, and Whatcom counties of region 2</u>
		(b)	<u>Cowlitz and Skamania counties of region 3</u>
		(c)	<u>region 4, except Okanogan and Stevens counties</u>
		(d)	<u>region 5, except Spokane County</u>
		(e)	<u>region 6</u>
(36)	<u>kochia, <i>Kochia scoparia</i></u>	(a)	<u>regions 1, 2, and 3</u>
		(b)	<u>Stevens and Pend Oreille counties of region 4</u>

		<u>Will be a "Class B designate" in all lands lying within:</u>	
<u>Name</u>			
(37)	<u>loosestrife, garden, <i>Lysimachia vulgaris</i></u>	(c)	<u>Adams County of region 5 regions 1, 2, 3, 4, 5, 6</u>
(38)	<u>loosestrife, purple, <i>Lythrum salicaria</i></u>	(a)	<u>Clallam and Jefferson counties of region 1</u>
		(b)	<u>region 2, except Kitsap, Pierce, Skagit, and Snohomish counties</u>
		(c)	<u>Clark, Lewis, and Skamania counties of region 3</u>
		(d)	<u>region 4, except Douglas County</u>
		(e)	<u>region 5, except Grant and Spokane counties</u>
		(f)	<u>Columbia, Garfield, and Walla Walla counties of region 6</u>
(39)	<u>loosestrife, wand, <i>Lythrum virgatum</i></u>	(a)	<u>Clallam and Jefferson counties of region 1</u>
		(b)	<u>region 2, except Kitsap, Pierce, Skagit, and Snohomish counties</u>
		(c)	<u>Clark, Lewis, and Skamania counties of region 3</u>
		(d)	<u>region 4, except Douglas County</u>
		(e)	<u>region 5, except Grant and Spokane counties</u>
		(f)	<u>Columbia, Garfield, and Walla Walla counties of region 6</u>
(40)	<u>parrotfeather, <i>Myriophyllum aquaticum</i></u>	(a)	<u>region 1, except Pacific County</u>
		(b)	<u>regions 2, 4, 5, and 6</u>
		(c)	<u>Clark and Skamania counties of region 3</u>
(41)	<u>perennial pepperweed, <i>Lepidium latifolium</i></u>	(a)	<u>regions 1, 2, and 4</u>
		(b)	<u>region 3, except Clark and Cowlitz counties</u>
		(c)	<u>Kittitas, Lincoln and Spokane counties of region 5</u>
		(d)	<u>Columbia and Garfield counties of region 6</u>
(42)	<u>poison hemlock, <i>Conium maculatum</i></u>	(a)	<u>Clallam, Mason, and Pacific counties of region 1</u>
		(b)	<u>region 2, except King, Skagit, and Whatcom counties</u>
		(c)	<u>Clark and Skamania counties of region 3</u>
		(d)	<u>Chelan and Pend Oreille counties of region 4</u>
		(e)	<u>Grant, Kittitas and Lincoln counties of region 5</u>
(43)	<u>policeman's helmet, <i>Impatiens glandulifera</i></u>	(a)	<u>region 1, except Pacific County</u>
		(b)	<u>region 2, except Pierce, Thurston, and Whatcom counties</u>
		(c)	<u>region 3, except Clark County</u>
		(d)	<u>region 4, except Pend Oreille County</u>
		(e)	<u>regions 5 and 6</u>
(44)	<u>puncturevine, <i>Tribulus terrestris</i></u>	(a)	<u>regions 1, 2, and 3</u>
		(b)	<u>Ferry, Pend Oreille, and Stevens counties of region 4</u>
		(c)	<u>region 5, except Grant, Klickitat, and Yakima counties</u>
(45)	<u>rush skeletonweed, <i>Chondrilla juncea</i></u>	(a)	<u>regions 1 and 3</u>
		(b)	<u>region 2, except Kitsap County</u>
		(c)	<u>region 4, except all areas of Stevens County south of Township 29</u>
		(d)	<u>Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36</u>
		(e)	<u>Asotin County of region 6</u>

<u>Name</u>		<u>Will be a "Class B designate" in all lands lying within:</u>	
(46)	<u>saltcedar, <i>Tamarix ramosissima</i></u> <u>(unless intentionally planted prior to 2004)</u>	(a)	<u>regions 1, 3, 4, and 5</u>
		(b)	<u>region 2, except King and Thurston counties</u>
		(c)	<u>region 6, except Benton and Franklin counties</u>
(47)	<u>Scotch broom, <i>Cytisus scoparius</i></u>	(a)	<u>regions 4 and 6</u>
		(b)	<u>region 5, except Klickitat County</u>
(48)	<u>spurge laurel, <i>Daphne laureola</i></u>	(a)	<u>region 1, except Clallam and Jefferson counties</u>
		(b)	<u>region 2, except King and Kitsap counties</u>
		(c)	<u>region 3, except Skamania County</u>
		(d)	<u>regions 4, 5, and 6</u>
(49)	<u>spurge, leafy, <i>Euphorbia esula</i></u>	(a)	<u>regions 1, 2, 3, and 4</u>
		(b)	<u>region 5, except Spokane and Whitman counties</u>
		(c)	<u>region 6, except Columbia and Garfield counties</u>
(50)	<u>spurge, myrtle, <i>Euphorbia myrsinites</i></u>	(a)	<u>regions 1, 3, 5, and 6</u>
		(b)	<u>region 2, except King, Kitsap, and Whatcom counties</u>
		(c)	<u>region 4, except Okanogan and Stevens counties</u>
(51)	<u>sulfur cinquefoil, <i>Potentilla recta</i></u>	(a)	<u>region 1</u>
		(b)	<u>region 2, except Pierce and Thurston counties</u>
		(c)	<u>region 3, except Lewis and Skamania counties</u>
		(d)	<u>Adams, Grant, Lincoln, and Whitman counties of region 5</u>
		(e)	<u>region 6, except Asotin County</u>
(52)	<u>tansy ragwort, <i>Senecio jacobaea</i></u>	(a)	<u>Island and San Juan counties of region 2</u>
		(b)	<u>Clark and Wahkiakum counties of region 3</u>
		(c)	<u>regions 4 and 6</u>
		(d)	<u>region 5, except Klickitat County</u>
(53)	<u>thistle, musk, <i>Carduus nutans</i></u>	(a)	<u>regions 1, 2, 3, and 6</u>
		(b)	<u>region 4, except Douglas and Ferry counties</u>
		(c)	<u>region 5, except Kittitas County</u>
(54)	<u>thistle, plumeless, <i>Carduus acanthoides</i></u>	(a)	<u>regions 1, 2, 3, 5, 6</u>
		(b)	<u>region 4, except Pend Oreille County and those areas north of State Highway 20 in Stevens County</u>
(55)	<u>thistle, Scotch, <i>Onopordum acanthium</i></u>	(a)	<u>region 1, 2, and 3</u>
		(b)	<u>region 4, except Douglas County</u>
		(c)	<u>region 5, except Spokane and Whitman counties</u>
(56)	<u>water primrose, <i>Ludwigia hexapetala</i></u>	(a)	<u>regions 1, 2, 4, 5, and 6</u>
		(b)	<u>region 3, except Cowlitz County</u>
(57)	<u>white bryony, <i>Bryonia alba</i></u>	(a)	<u>regions 1, 2, 3, and 4</u>
		(b)	<u>region 5, except Whitman County</u>
		(c)	<u>Benton County of region 6</u>
(58)	<u>wild chervil, <i>Anthriscus sylvestris</i></u>	(a)	<u>regions 1, 4, and 6</u>
		(b)	<u>region 2, except Whatcom County</u>
		(c)	<u>Wahkiakum and Lewis counties of region 3</u>
		(d)	<u>region 5, except Whitman County</u>
(59)	<u>yellow archangel, <i>Lamiastrum galeobdolon</i></u>	(a)	<u>Clallam County of region 1</u>
		(b)	<u>San Juan, Skagit, and Whatcom counties of region 2</u>
		(c)	<u>Cowlitz, Skamania and Wahkiakum counties of region 3</u>
		(d)	<u>regions 4, 5, and 6</u>

<u>Name</u>		<u>Will be a "Class B designate" in all lands lying within:</u>	
(60)	<u>yellow floating heart, <i>Nymphoides peltata</i></u>	(a)	<u>regions 1, 2, and 6</u>
		(b)	<u>region 3, except Cowlitz County</u>
		(c)	<u>region 4, except Stevens County</u>
		(d)	<u>region 5, except Spokane County</u>
(61)	<u>yellow nutsedge, <i>Cyperus esculentus</i></u>	(a)	<u>regions 1, 3, and 4</u>
		(b)	<u>region 2, except Skagit and Thurston counties</u>
		(c)	<u>region 5, except Klickitat and Yakima Counties</u>
		(d)	<u>region 6, except Franklin and Walla Walla counties</u>
(62)	<u>yellow starthistle, <i>Centaurea solstitialis</i></u>	(a)	<u>regions 1, 2, and 3</u>
		(b)	<u>region 4, except T36 R38 north of Hwy 395/Hwy 20 and west of Pingston Creek Road in Stevens County</u>
		(c)	<u>region 5, except Klickitat, and Whitman counties</u>

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
((babysbreath beard, old man's bindweed, field blackberry, evergreen blackberry, Himalayan canarygrass, reed cockle, white cocklebur, spiny cress, hoary dodder, smoothseed alfalfa eelgrass, Japanese (on commercially managed shellfish beds only) goatgrass, jointed groundsel, common hawkweed, common hawkweed, other nonnative species	<i>Gypsophila paniculata</i> <i>Clematis vitalba</i> <i>Convolvulus arvensis</i> <i>Rubus laciniatus</i> <i>Rubus armeniacus</i> <i>Phalaris arundinacea</i> <i>Silene latifolia ssp. alba</i> <i>Xanthium spinosum</i> <i>Cardaria draba</i> <i>Cuscuta approximata</i> <i>Zostera japonica</i> <i>Aegilops cylindrica</i> <i>Senecio vulgaris</i> <i>Hieracium lachenalii</i> <i>Hieracium sp.</i> , except species designated in the note in the left hand column

Notes:

This listing includes all species of *Hieracium*, except the following:

- Species designated as Class A noxious weeds in WAC 16-750-005;
- Species designated as Class B noxious weeds in WAC 16-750-011;

Common Name

Scientific Name

• Native species designated below:

- Canada hawkweed (*H. canadense*)
- houndstongue hawkweed (*H. cynoglossoides*)
- long beaked hawkweed (*H. longiberbe*)
- narrow-leaved hawkweed (*H. umbellatum*)
- slender hawkweed (*H. gracile*)
- western hawkweed (*H. albertinum*)
- white-flowered hawkweed (*H. albiflorum*)
- woolley weed (*H. seoul-eri*)

- henbane, black
- iris, yellow flag
- ivy, English, 4 cultivars only:

- Hyoseyamus niger*
- Iris pseudacorus*
- Hedera hibernica* 'Hibernica'
- Hedera helix* 'Baltica'
- Hedera helix* 'Pittsburgh'
- Hedera helix* 'Star'

- mayweed, scentless
- pondweed, curly leaf
- rye, cereal
- spikeweed
- St. Johnswort, common
- tansy, common
- thistle, bull
- thistle, Canada

- Matricaria perforata*
- Potamogeton crispus*
- Secale cereale*
- Hemizonia pungens*
- Hypericum perforatum*
- Tanacetum vulgare*
- Cirsium vulgare*
- Cirsium arvense*

Common Name	Scientific Name	Common Name	Scientific Name
<u>toadflax, yellow</u>	<u><i>Linaria vulgaris</i></u>	<u>– houndstongue hawkweed</u>	
<u>tree-of-heaven</u>	<u><i>Ailanthus altissima</i></u>	<u>(<i>H. cynoglossoides</i>)</u>	
<u>water lily, fragrant</u>	<u><i>Nymphaea odorata</i></u>	<u>– long-beaked hawkweed</u>	
<u>whitetop, hairy</u>	<u><i>Cardaria pubescens</i></u>	<u>(<i>H. longiberbe</i>)</u>	
<u>wormwood, absinth</u>	<u><i>Artemisia absinthium</i></u>	<u>– narrow-leaved hawkweed</u>	
<u>absinth wormwood</u>	<u><i>Artemisia absinthium</i></u>	<u>(<i>H. umbellatum</i>)</u>	
<u>Austrian fieldcress</u>	<u><i>Rorippa austriaca</i></u>	<u>– slender hawkweed (<i>H.</i></u>	
<u>babysbreath</u>	<u><i>Gypsophila paniculata</i></u>	<u><i>gracile</i>)</u>	
<u>black henbane</u>	<u><i>Hyoscyamus niger</i></u>	<u>– western hawkweed (<i>H.</i></u>	
<u>blackberry, evergreen</u>	<u><i>Rubus laciniatus</i></u>	<u><i>albertinum</i>)</u>	
<u>blackberry, Himalayan</u>	<u><i>Rubus armeniacus</i></u>	<u>– white-flowered hawkweed</u>	
<u>blackgrass</u>	<u><i>Alopecurus myosuroides</i></u>	<u>(<i>H. albiflorum</i>)</u>	
<u>cereal rye</u>	<u><i>Secale cereale</i></u>	<u>– woolley-weed (<i>H. scoul-</i></u>	
<u>common barberry</u>	<u><i>Berberis vulgaris</i></u>	<u><i>eri</i>)</u>	
<u>common catsear</u>	<u><i>Hypochaeris radicata</i></u>	<u>hoary cress</u>	<u><i>Cardaria draba</i></u>
<u>common groundsel</u>	<u><i>Senecio vulgaris</i></u>	<u>Japanese eelgrass</u>	<u><i>Zostera japonica</i></u>
<u>common St. Johnswort</u>	<u><i>Hypericum perforatum</i></u>	<u>jointed goatgrass</u>	<u><i>Aegilops cylindrica</i></u>
<u>common tansy</u>	<u><i>Tanacetum vulgare</i></u>	<u>lawnweed</u>	<u><i>Soliva sessilis</i></u>
<u>common teasel</u>	<u><i>Dipsacus fullonum</i></u>	<u>lepyrodiclis</u>	<u><i>Lepyrodiclis holosteoides</i></u>
<u>curly-leaf pondweed</u>	<u><i>Potamogeton crispus</i></u>	<u>longspine sandbur</u>	<u><i>Cenchrus longispinus</i></u>
<u>English ivy 4 cultivars only:</u>	<u><i>Hedera hibernica</i> 'Hiber-</u>	<u>old man's beard</u>	<u><i>Clematis vitalba</i></u>
	<u><i>nica</i>'</u>	<u>oxeye daisy</u>	<u><i>Leucanthemum vulgare</i></u>
	<u><i>Hedera helix</i> 'Baltica'</u>	<u>perennial sowthistle</u>	<u><i>Sonchus arvensis ssp.</i></u>
	<u><i>Hedera helix</i> 'Pittsburgh'</u>		<u><i>arvensis</i></u>
	<u><i>Hedera helix</i> 'Star'</u>	<u>reed canarygrass</u>	<u><i>Phalaris arundinacea</i></u>
<u>field bindweed</u>	<u><i>Convolvulus arvensis</i></u>	<u>scentless mayweed</u>	<u><i>Matricaria perforata</i></u>
<u>fragrant water lily</u>	<u><i>Nymphaea odorata</i></u>	<u>smoothseed alfalfa dodder</u>	<u><i>Cuscuta approximata</i></u>
<u>hairy whitetop</u>	<u><i>Cardaria pubescens</i></u>	<u>spikeweed</u>	<u><i>Hemizonia pungens</i></u>
<u>hawkweed, common</u>	<u><i>Hieracium lachenalii</i></u>	<u>spiny cocklebur</u>	<u><i>Xanthium spinosum</i></u>
<u>hawkweed, polar</u>	<u><i>Hieracium atratum</i></u>	<u>Swainsonpea</u>	<u><i>Sphaerophysa salsula</i></u>
<u>hawkweed, other nonnative</u>	<u><i>Hieracium spp.</i>, except spe-</u>	<u>thistle, bull</u>	<u><i>Cirsium vulgare</i></u>
<u>species</u>	<u>cies designated in the note in</u>	<u>thistle, Canada</u>	<u><i>Cirsium arvense</i></u>
	<u>the left-hand column</u>	<u>tree-of-heaven</u>	<u><i>Ailanthus altissima</i></u>
		<u>white cockle</u>	<u><i>Silene latifolia ssp. alba</i></u>
		<u>wild carrot (except where</u>	<u><i>Daucus carota</i></u>
		<u>commercially grown)</u>	
		<u>yellow flag iris</u>	<u><i>Iris pseudacorus</i></u>
		<u>yellow toadflax</u>	<u><i>Linaria vulgaris</i></u>

Note:

This listing includes all species of *Hieracium*, except the following:

- Species designated as Class A noxious weeds in WAC 16-750-005;
- Species designated as Class B noxious weeds in WAC 16-750-011;
- Native species designated below:

– Canada hawkweed (*H. canadense*)

WSR 13-01-054**PERMANENT RULES****DEPARTMENT OF ECOLOGY**

[Order 11-06—Filed December 14, 2012, 3:11 p.m., effective January 14, 2013]

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

Purpose: This rule making amends chapter 173-182 WAC, Oil spill contingency plan, to reflect changes found in chapters 88.46, 90.48, and 90.56 RCW passed by the legisla-

ture in 2011. Rule revisions are needed to update planning standards.

The rule making will: Update state oil spill preparedness planning standards to incorporate best achievable protection and best available technology; improve the state's current vessels of opportunity system; require joint large-scale equipment deployment drills from tank vessels; improve the state-required notification process to include potential spill threats as well as actual spills; change contingency plan requirements for nonprofit "umbrella" organizations; update definitions; make other changes related to oil spill contingency plans and ecology's contingency plan review and approval process.

Citation of Existing Rules Affected by this Order: Amending chapter 173-182 WAC.

Statutory Authority for Adoption: Chapters 88.46, 90.48, 90.56 RCW, and chapter 122, Laws of 2011 (E2SHB 1186) authorizes and directs department of ecology to implement rules on this subject.

Adopted under notice filed as WSR 12-17-073 on August 14, 2012.

Changes Other than Editing from Proposed to Adopted Version: **WAC 173-182-030:** Additional language was added to the definition of "best achievable technology" to ensure the definition in the rule matches the definition in the authorizing statute. The change was made for consistency and in response to comments we received.

The final rule includes a definition of the "Lower Columbia River" as the Columbia River waters west of the Bonneville Dam. This definition was added to define the region where updated vessel of opportunity and aerial surveillance requirements apply.

WAC 173-182-130: This section was revised to include umbrella plan holder requirements to both; update their contingency plans to specify the worst case discharge volume and product type for tank and nontank covered vessels for each port covered by the contingency plan, and include processes for maintaining additional agreements for supplemental resources. The phrase in of these elements was omitted from the initially proposed language.

The phase in for the aerial surveillance planning standard has been changed. Initially the phase in required plan holders to have access to an asset with a suite of best achievable technology equipment resources including FLIR [forward looking infrared radar] within thirty-six months of the rule effective date. We made the phase-in for the aerial surveillance asset with FLIR into a two-step process. Step one involves submitting a proposal to ecology for review thirty-six months from rule effective date, once approved by ecology plan holders must update the plan and ensure as necessary; contracting, staging, or purchasing is completed within forty-eight months. The two-step phase supports plan holders ability to comply as well as public comment and review of the proposed systems.

WAC 173-182-145: Subsection (2) was eliminated due to comments received regarding confusion as to what would constitute not following the contingency plan as written. The changes made to this section do not alter the meaning of the rule.

WAC 173-182-230: This section was revised to more clearly describe plan holder requirements to ensure adequate detail in the contingency plans regarding oil products covered in the plans. The change was made in response to comments received.

The acronym P&I Club (Protection and Indemnity Club) was spelled out based on comments received.

WAC 173-182-232: The word "combined" was added to clarify how supplemental resources are made available under the umbrella contingency plan framework. The change was made based on comments received.

WAC 173-182-264: This section was edited to clarify circumstances that do not require notification for spills to ground. Where notifications were already regulated by other laws and rules we eliminated those scenarios from this regulatory notification requirement.

The phrase "best professional judgment" was added to describe how to address a spill of unknown volume. This is commonly used language in other reporting requirements.

WAC 173-182-317: This section was amended to clearly state that potential vessels of opportunity (VOO) may contract to support more than one plan holder or the primary response contractor (PRC). This clarifies our intent to support plan holders sharing the costs of training and contracting vessels. This change was based on comments received.

A reference to the VOO region map was added to the final rule language. This change was based on comments received.

The phrase "in the near shore environment" was added to be consistent with the authorizing statute. The change was based on comments received.

The minimum number of TIER I VOO required in the Grays Harbor VOO region changed from twelve to six. This change was made to scale the VOO requirement based on the vessels types and transits in the region.

WAC 173-182-321: This section was revised to define the geographic area where the standard applies. This change was made based on comments received.

In subsection (3) we changed the language from assist in "detection" of slicks to "location" of slicks. Location better describes the action required. This change was made based on comments received.

Changed the requirement for the aerial asset with FLIR to arrive on scene from eight to twelve hours of notification. We received comments that the planning asset did not need to be on-site before twelve hours. We changed the time to arrive to twelve hours to allow plan holders added flexibility in contracting existing aerial assets with this capability, instead of acquiring an asset themselves. We also did not want the short timeframe to force plan holders to acquire the asset. The longer timeframe should also allow the resource to be nondedicated to oil spill response. This change was made based on comments received.

Eliminated the detailed capability statements for the FLIR camera to provide plan holders with more flexibility in meeting the standard. We are instead requiring the FLIR to be mounted, which inherently has capabilities, or in the alternative to provide data supporting how the handheld unit will be effective from an aerial platform. This change was based on comments received.

Removed the requirement to transmitted processed images in "near real" time. We eliminated this requirement due to confusion about what it means to transmit in near real time. Our goal is the ability to provide data to the command post that supports planning for the next operational period. The resource must have this capability but the timeliness of transmission is no longer prescribed in the rule.

Subsection (3)(c)(vi) removed the word "appropriate" because it was not defined and not necessary to support the item. This change was made based on comments received.

Subsection (4) we struck "enough" from the final language because it is not defined. This change does not alter the meaning of the rule. The standard is about training and not numbers of personnel. This change was made based on comments received.

WAC 173-182-324: Clarified the activities covered by the standard. Our intent is for the standard to apply to both facilities and vessels.

Amended subsection (2). The Group 5 standard was adopted from the federal Group 5 oil standard into our rule. We struck the following language "must be suitable for the geographic area authorized for operations and those resources" because it is a federal term of art. We do not evaluate our PRCs on geographic areas. We evaluate planning standards for geographic areas. These changes were made in response to comments received.

WAC 173-182-335: Clarified that the dedicated on-water storage requirement applies to covered vessel plan holders, at twenty-four hours based on the applicable planning standard tables for the areas they transit or operate. The change was made based on comments received.

WAC 173-182-350: Subsection (5)(a) includes a phrase to inform plan holders of the types of data that must be submitted in order to satisfy an alternative notification, mobilization or travel time request.

WAC 173-182-522: Clarified training requirements and changed the language to allow any mobile storage cache, not just a trailer, to be used to meet the requirements.

WAC 173-182-621: Struck the language "requiring studies" as it was ambiguous who would be required to perform the studies.

WAC 173-182-640: Struck the language describing how ecology will make plans available for public review via a secure on-line web portal. Ecology will make plans available on-line but we do not want to be too prescriptive in the rule about the processes we will utilize.

WAC 173-182-810: Changed the rule to more clearly reflect that PRCs are responsible to train specific to the tactics the PRC intends to perform on behalf of the plan holder.

A final cost-benefit analysis is available by contacting the Outreach and Education Specialist, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7455, fax (360) 407-7288, e-mail mevo461@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 7, Amended 23, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 2, Amended 4, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 4, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 14, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 38, Repealed 1.

Date Adopted: December 14, 2012.

Ted Sturdevant
Director

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-010 Purpose. The purpose of this chapter is to establish covered vessel and facility oil spill contingency plan requirements (Part II) (~~and~~), drill and equipment verification requirements (Part III), primary response contractor standards (Part IV) and recordkeeping and compliance information (Part V).

(1) The provisions of this chapter, when followed, should be implemented and construed so that they will:

((+)) (a) Maximize the effectiveness and timeliness of oil spill response by plan holders and response contractors;

((2)) (b) Ensure continual readiness, maintenance of equipment and training of personnel;

((3)) (c) Support coordination with state, federal, and other contingency planning efforts; (~~and~~

(4)) (d) Provide for the protection of Washington waters, natural, cultural and significant economic resources by minimizing the impact of oil spills; and

(e) For covered vessels, provide the highest level of protection that can be met through the use of best achievable technology and those staffing levels, training procedures, and operational methods that constitute best achievable protection as informed by the BAP five year review cycle (WAC 173-182-621) and as determined by ecology.

(2) The planning standards described in this chapter do not constitute clean-up standards that must be met by the holder of a contingency plan. Failure to remove a discharge within the time periods set out in this section does not constitute failure to comply with a contingency plan, for purposes of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law so that all reasonable efforts are made to do so. In a spill or drill deployment of equipment and personnel shall be guided by safety considerations. The responsible party must take all actions necessary and appropriate to immediately collect and remove, contain, treat, burn and disperse oil entering waters of the state and address the entire volume of an actual spill regardless of the planning standards.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-015 Applicability. (1) This chapter applies to owners and operators of onshore and offshore facil-

ities and covered vessels required to submit oil spill contingency plans under chapters 90.56 and 88.46 RCW.

(2) This chapter applies to ~~((Washington))~~ nonprofit corporations, their enrolled members, and agents that submit and implement plans on behalf of onshore and offshore facilities and covered vessels.

(3) This chapter applies to response contractors that must be approved by ecology before they may serve as primary response contractors for a contingency plan.

(4) This chapter does not apply to public vessels as defined by this chapter, mobile facilities or to spill response vessels that are exclusively dedicated to spill response activities when operating on the waters of this state.

AMENDATORY SECTION (Amending Order 07-14, filed 11/7/07, effective 12/8/07)

WAC 173-182-030 Definitions. (1) "Aerial oil spill spotter" (spotter) means personnel trained to:

- (a) Direct vessels to the heaviest concentrations of oil;
- (b) Direct dispersant resources;
- (c) Direct in situ burn resources; and
- (d) Observe document and report the effectiveness of response operations.

(2) "Aerial observer" means a trained observer that monitors, records and reports the spill characteristics including the shoreline impacts, area oiled, color, and thickness of the oil. Observers also provide data to the command post through the development of detailed maps of the area oiled and the resources in the field as well as other photographs, videos, or documents developed to support planning.

(3) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. Ecology's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

- (a) The additional protection provided by the measures;
- (b) The technological achievability of the measures; and
- (c) The cost of the measures.

(4) "Best achievable technology" means the technology that provides the greatest degree of protection. Ecology's determination of best achievable technology will take into consideration:

(a) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development;

(b) Processes that are currently in use; and

(c) In determining what is best achievable technology, ecology shall consider the effectiveness, engineering feasibility, and the commercial availability of the technology.

(5) "Boom" means flotation boom or other effective barrier containment material suitable for containment, protection or recovery of oil that is discharged onto the surface of the water. Boom also includes the associated support equipment necessary for rapid deployment and anchoring appropriate for the operating environment. Boom will be classified using criteria found in the 2000 ASTM International F 1523-94

(2001) and ASTM International F 625-94 (Reapproved 2000), and the Resource Typing Guidelines found in chapter 13 of the 2000 Oil spill field operations guide.

~~((2))~~ (6) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

~~((3))~~ (7) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to commercial fish processing vessels and freighters.

~~((4))~~ (8) "Cascade" means to bring in equipment and personnel to the spill location in a succession of stages, processes, operations, or units.

~~((5))~~ (9) "Contract or letter summarizing contract terms" means:

(a) A written contract between a plan holder and a primary response contractor or other provider or proof of cooperative membership that identifies and ensures the availability of specified personnel and equipment within stipulated planning standard times; or

(b) A letter that: Identifies personnel, equipment and services capable of being provided by the primary response contractor or other provider within stipulated planning standard times; acknowledges that the primary response contractor ~~((intends to))~~ or other provider commits the identified resources in the event of an oil spill.

~~((6))~~ (10) "Covered vessel" means a tank vessel, cargo vessel (including fishing and freight vessels), or passenger vessel required to participate in this chapter.

~~((7))~~ (11) "Dedicated" means equipment and personnel committed to oil spill response, containment, and cleanup that are not used for any other activity that would make it difficult or impossible for that equipment and personnel to provide oil spill response services in the time frames specified in this chapter.

~~((8))~~ (12) "Demise charter" means that the owner gives possession of the ship to the charterer and the charterer hires its own master and crew.

~~((9))~~ (13) "Director" means the director of the state of Washington department of ecology.

~~((10))~~ (14) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

~~((11))~~ (15) "Dispersant" means those chemical agents that emulsify, disperse, or solubilize oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column.

~~((12))~~ (16) "Effective daily recovery capacity" (EDRC) means the calculated capacity of oil recovery devices that accounts for limiting factors such as daylight, weather, sea state, and emulsified oil in the recovered material.

~~((13))~~ (17) "Ecology" means the state of Washington department of ecology.

~~((14))~~ (18) "Emergency response towing vessel" means a towing vessel stationed at Neah Bay that is available to respond to vessel emergencies upon call out under the contingency plan. The emergency response towing vessel shall be available to the owner or operator of the covered vessel transiting to or from a Washington port through the Strait of Juan

de Fuca, except for transits extending no further west than Race Rocks Light, Vancouver Island, Canada.

~~(19)~~ (19) "Facility" means:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that:

(i) Transfers oil in bulk to or from a tank vessel or pipeline; and

(ii) Is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by ecology or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

~~((15))~~ (20) "Geographic Response Plans (GRP)" means response strategies published in the *Northwest Area Contingency Plan*.

~~((16))~~ (21) "Gross tons" means a vessel's approximate volume as defined under Title 46, United States Code of Federal Regulations, Part 69.

~~((17))~~ (22) "Incident command system (ICS)" means a standardized on-scene emergency management system specifically designed to allow its user(s) to adopt an integrated organizational structure equal to the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries.

~~((18))~~ (23) "In situ burn" means a spill response tactic involving controlled on-site burning, with the aid of a specially designed fire containment boom and igniters.

~~((19))~~ (24) "Interim storage" means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site.

~~((20))~~ (25) "Lower Columbia River" means the Columbia River waters west of Bonneville Dam.

(26) "Maximum extent practicable" means the highest level of effectiveness that can be achieved through staffing levels, training procedures, deployment and tabletop drills incorporating lessons learned, use of enhanced skimming techniques and other best achievable technology. In determining what the maximum extent practicable is, the director shall consider the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.

~~((21))~~ (27) "Mobilization" means the time it takes to get response resources readied for operation and ready to travel to the spill site or staging area.

~~((22))~~ (28) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

~~((23))~~ (29) "Nondedicated" means those response resources listed by a primary response contractor for oil spill response activities that are not dedicated response resources.

~~((24))~~ (30) "Nonpersistent or group 1 oil" means:

(a) A petroleum-based oil, such as gasoline, diesel or jet fuel, which evaporates relatively quickly. Such oil, at the time of shipment, consists of hydrocarbon fractions of which:

~~((a))~~ (i) At least fifty percent, by volume, distills at a temperature of 340°C (645°F); and

~~((b))~~ (ii) At least ninety-five percent, by volume, distills at a temperature of 370°C (700°F).

~~((25))~~ (b) A nonpetroleum oil with a specific gravity less than 0.8.

(31) "Nonpetroleum oil" means oil of any kind that is not petroleum-based, including but not limited to: Biological oils such as fats and greases of animals and vegetable oils, including oils from seeds, nuts, fruits, and kernels.

(32) "*Northwest Area Contingency Plan (NWACP)*" means the regional emergency response plan developed in accordance with federal requirements. In Washington state, the NWACP serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060.

~~((26))~~ (33) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility, any part of which is located in, on, or under any land of the state, other than submerged land.

~~((27))~~ (34) "Oil" or "oils" means oil of any kind that is liquid at atmospheric temperature and pressure and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, biological oils and blends, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

~~((28))~~ (35) "Oily waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

~~((29))~~ (36) "Onshore facility" means any facility, as defined in subsection (14) of this section, any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

~~((30))~~ (37) "Operating environments" means the conditions in which response equipment is designed to function. Water body classifications will be determined using criteria found in the ASTM Standard Practice for Classifying Water Bodies for Spill Control Systems.

~~((31))~~ (38) "Operational period" means the period of time scheduled for execution of a given set of operational actions as specified in the incident action plan. The operational period coincides with the completion of one planning cycle.

(39) "Owner" or "operator" means:

(a) In the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

(b) In the case of an onshore or offshore facility, any person owning or operating the facility; ~~((and))~~

(c) In the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment~~((-)); and~~

(d) Operator does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

~~((32))~~ (40) "Passenger vessel" means a ship of greater than three hundred gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

~~((33))~~ (41) "Passive recovery" means a tactic that uses absorbent material to mitigate impacts to shorelines.

(42) "Persistent oil" means:

(a) Petroleum-based oil that does not meet the distillation criteria for a nonpersistent oil. Persistent oils are further classified based on both specific and American Petroleum Institute (API) observed gravities corrected to 60°F, as follows:

~~((a))~~ (i) Group 2 - Specific gravity greater than or equal to 0.8000 and less than 0.8500. API gravity less than or equal to 45.00 and greater than 35.0;

~~((b))~~ (ii) Group 3 - Specific gravity greater than or equal to 0.8500, and less than 0.9490. API gravity less than or equal to 35.0 and greater than 17.5;

~~((c))~~ (iii) Group 4 - Specific gravity greater than or equal to 0.9490 and up to and including 1.0. API gravity less than or equal to 17.5 and greater than 10.00; and

~~((d))~~ (iv) Group 5 - Specific gravity greater than 1.0000. API gravity equal to or less than 10.0.

~~((34))~~ (b) A nonpetroleum oil with a specific gravity of 0.8 or greater. These oils are further classified based on specific gravity as follows:

(i) Group 2 - Specific gravity equal to or greater than 0.8 and less than 0.85;

(ii) Group 3 - Specific gravity equal to or greater than 0.85 and less than 0.95;

(iii) Group 4 - Specific gravity equal to or greater than 0.95 and less than 1.0; or

(iv) Group 5 - Specific gravity equal to or greater than 1.0.

(43) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, co-partnership, association, firm, individual, or any other entity whatsoever.

~~((35))~~ "Pipeline" means a pipeline connected to a facility, and not owned or operated by the facility referred to in subsection (14) of this section.

~~((36))~~ (44) "Pipeline tank farm" means a facility that is linked to a pipeline but not linked to a vessel terminal.

~~((37))~~ (45) "Plan" means oil spill response, cleanup, and disposal contingency plan for the containment and cleanup of oil spills into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills as required by RCW 90.56.210 and 88.46.060.

~~((38))~~ (46) "Plan holder" means all covered facility owner/operators required to submit contingency plans, all covered vessel owner/operators required to submit contingency plans or enroll under a vessel umbrella plan and the umbrella plan holders that submit contingency plans on

behalf of multiple covered vessels owner/operators or facility owner/operators.

~~((47))~~ (47) "Planning standards" means goals and criteria that ecology will use to assess whether a plan holder is prepared to respond to the maximum extent practicable to a worst case spill. Ecology will use planning standards for reviewing oil spill contingency plans and evaluating drills.

~~((39))~~ (48) "Primary response contractor (PRC)" means a response contractor that has been approved by ecology and is directly responsible to a contingency plan holder, either by a contract or other approved written agreement.

~~((40))~~ (49) "Public vessel" means a vessel that is owned, or demise chartered, and is operated by the United States government, or a government of a foreign country, and is not engaged in commercial service.

~~((41))~~ (50) "Regional response list" means a regional equipment list established and maintained by spill response equipment owners in the northwest area.

~~((42))~~ (51) "Regional vessels of opportunity response group" means a group of nondedicated vessels participating in a vessel of opportunity response system to respond when needed and available.

(52) "Resident" means the spill response resources are staged at a location within the described planning area.

~~((43))~~ (53) "Responsible party" means a person liable under RCW 90.56.370.

~~((44))~~ (54) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

~~((45))~~ (55) "Spill" means an unauthorized discharge of oil which enters waters of the state.

~~((46))~~ (56) "Spill assessment" means determining product type, potential spill volume, environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring.

~~((47))~~ (57) "Systems approach" means the infrastructure and support resources necessary to mobilize, transport, deploy, sustain, and support the equipment to meet the planning standards, including mobilization time, trained personnel, personnel call out mechanisms, vehicles, trailers, response vessels, cranes, boom, pumps, storage devices, etc.

(58) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

~~((48))~~ (59) "Technical manual" means a manual intended to be used as a planning document to support the evaluation of best achievable protection systems for potential response capability of plan holder owned and PRC dedicated and nondedicated equipment.

(60) "Transmission pipeline" means a pipeline whether interstate or intrastate, subject to regulation by the United States Department of Transportation under 49 C.F.R. 195, as amended through December 5, 1991, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipe, pumping units, and fabricated assemblies associated with pumping units.

~~((49))~~ (61) "Transfer site" means a location where oil is moved in bulk on or over waters of the state to or from a covered vessel by means of pumping, gravitation, or displacement.

~~((50))~~ (62) "Recovery system" means a skimming device, storage work boats, boom, and associated material needed such as pumps, hoses, sorbents, etc., used collectively to maximize oil recovery.

~~((51))~~ (63) "Umbrella plan" means a single plan that is prepared by a plan holder to cover ~~((s))~~ multiple vessels ~~((or facilities))~~.

~~((52))~~ (64) "Vessels of opportunity response system" means nondedicated vessels and operating personnel, including fishing and other vessels, available to assist in spill response when necessary. The vessels of opportunity are under contract with and equipped by contingency plan holders to assist with oil spill response activities including, but not limited to, on-water oil recovery in the near shore environment, the placement of oil spill containment booms to protect sensitive habitats, and providing support of logistical or other tactical actions.

(65) "Vessel terminal" means a facility that is located on marine or river waters and transfers oil to or from a tank vessel.

~~((53))~~ (66) "Waters of the state" means all lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

~~((54))~~ (67) "Worst case spill" means:

(a) For an offshore facility, the largest possible spill considering storage, production, and transfer capacity complicated by adverse weather conditions; or

(b) For an onshore facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions, unless ecology determines that a larger or smaller volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity; or

(c) For a vessel, a spill of the vessel's entire cargo and fuel complicated by adverse weather conditions; or

(d) For pipelines, the size of the worst case spill is dependent on the location of pump stations, key block valves, geographic considerations, or volume of the largest breakout tank. The largest volume determined from three different methods, complicated by adverse weather conditions:

(i) The pipeline's maximum time to detect the release, plus the maximum shutdown response time multiplied by the maximum flow rate per hour, plus the largest line drainage volume after shutdown;

(ii) The maximum historic discharge from the pipeline; and

(iii) The largest single breakout tank or battery of breakout tanks without a single secondary containment system. Each operator shall determine the worst case discharge and provide the methodology, including calculations, used to arrive at the volume.

~~((55))~~ (68) "WRIA" means a water resource inventory area as defined in chapter 173-500 WAC.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-110 Authority to submit contingency plan. (1) For tank vessels, a plan may be submitted by any of the following:

(a) The owner or operator of the tank vessel; or

(b) The owner or operator of the facilities at which the tank vessel will be unloading its cargo; or

(c) A ~~((Washington state))~~ nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the tank vessel owner or operator is a member; or

(d) A PRC contractually obligated to provide containment and cleanup services to the tank vessel company.

(2) For covered vessels other than tank vessels, a plan may be submitted by any of the following:

(a) The owner or operator of the covered vessel; or

(b) The agent for the covered vessel provided that the agent resides in this state; or

(c) A ~~((Washington state))~~ nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the covered vessel owner or operator is a member; or

(d) A PRC contractually obligated to provide containment and cleanup services to the covered vessel company.

(3) For facilities, a plan may be submitted by any of the following:

(a) The owner or operator of the facility; or

(b) A PRC contractually obligated to provide containment and cleanup services to the facility.

(4) One plan, or one umbrella plan, may be submitted for multiple covered vessels, and/or for multiple facilities, provided that the plan contents meet the requirements in this chapter for each covered vessel or facility.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-120 Submitting a contingency plan.

(1) Plan holders shall submit ~~((a))~~ plans to ecology no less than sixty-five days prior to ~~((the))~~ their planned date for beginning of operations in Washington.

(2) The plan holder shall submit two copies of the plan and all appendices. ~~((However, if the plan and appendices are submitted with an acceptable use of electronic copy, the plan holder shall submit at least one paper copy.))~~ Electronic submission of plans is encouraged, provided it is in an electronic format acceptable to ecology.

(3) Once approved, plan holders shall resubmit their plans to ecology every five years for review and approval.

(4) The plans and all subsequent updates shall be delivered to:

Department of Ecology

Spill Prevention, Preparedness, and Response Program
Preparedness Section, Contingency Plan Review

Mailing address:

P.O. Box 47600

Olympia, WA 98504-7600

Physical Address:
300 Desmond Drive
Lacey, WA 98503

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-130 Phase in language. (1) This section applies to those plan holders who, on the effective date of this chapter, have approved or conditionally approved plans, and response contractors with approved applications. Each update must contain all necessary content and meet the requirements of this chapter.

(2) For existing approved facility plan holders(=

(a) ~~Plans holders for onshore facilities capable of storing one million gallons or more of oil shall submit a revised contingency plan to ecology six months after the effective date of this chapter; except, plan holders that received plan approval six months prior to the effective date of this chapter must submit a revised plan within twelve months of the effective date of this chapter. In submitting the revised plan, plan holders must include a compliance schedule describing how they will meet the requirements in WAC 173-182-310 through 173-182-440. Plan holders shall have eighteen months from the effective date of this chapter to reach compliance.~~

~~(b) All other onshore facilities shall submit revised plans to ecology within twelve months after the effective date of this chapter; except plan holders that received plan approval six months prior to the effective date of this chapter must submit a revised plan within eighteen months of the effective date of this chapter. In the revised plan, plan holders must include a compliance schedule describing how they will meet the requirements in WAC 173-182-310 through 173-182-440. Plan holders shall have twenty-four months from the effective date of this chapter to reach compliance.)~~ Within six months after the effective date of this chapter, all facility plan holders must update their plans to comply with the following sections as applicable to the facility:

(a) Binding agreement (WAC 173-182-220).

(b) Contingency plan general content (WAC 173-182-230(7)), claims procedures.

(c) Contingency plan general content (WAC 173-182-230 (4)(c)(i) through (v)), products handled.

(d) Facility spills to ground notifications (WAC 173-182-264).

(e) Planning standards for dispersants (WAC 173-182-325).

(f) Planning standard for Group 5 Oils (WAC 173-182-324).

(g) To the extent to which plan holders rely on PRC applications to demonstrate compliance for plan holder, PRC applications must also be updated correspondingly.

(3) For existing approved tank vessel plan holders and vessel umbrella plan holders, the following is required, as applicable to the plan holder:

~~((a) Plan holders for tank vessels submit a revised contingency plan to ecology six months after the effective date of this chapter; except plan holders that received plan approval six months prior to the effective date of this chapter must submit a revised plan within twelve months of the effective date~~

~~of this chapter. In the revised plan, plan holders must include a compliance schedule describing how they will meet the requirements in WAC 173-182-310 through 173-182-440. Plan holders shall have eighteen months from the effective date of this chapter to reach compliance.~~

~~(b) All other covered vessels shall submit revised plans to ecology within twelve months after the effective date of this chapter; except plan holders that received plan approval six months prior to the effective date of this chapter must submit a revised plan within eighteen months of the effective date of this chapter. In the revised plan, plan holders must include a compliance schedule describing how they will meet the requirements in WAC 173-182-310 through 173-182-440. Plan holders shall have twenty-four months from the effective date of this chapter to reach compliance.~~

~~(4) PRCs shall submit new applications to ecology within twelve months.)~~ (a) Within six months after the effective date of this chapter, all tank vessel plan holders and vessel umbrella plan holders must update their plans to comply with the following sections:

(i) Binding agreement (WAC 173-182-220).

(ii) Contingency plan general content (WAC 173-182-230 (3)(b)(ii)).

(iii) Contingency plan general content (WAC 173-182-230 (5)(f) and (g)).

(iv) Contingency plan general content (WAC 173-182-230 (6)(a)(i) through (vii)).

(v) Contingency plan general content (WAC 173-182-230(7)), claims procedures.

(vi) Aerial surveillance planning standard (WAC 173-182-321(2)), Additional surveillance assets.

(vii) Planning standard for dispersants (WAC 173-182-325). (viii) Planning standard for Group 5 Oils (WAC 173-182-324).

(ix) Requirements for vessel umbrella plan holders maintaining additional agreements for supplemental resources (WAC 173-182-232).

(x) To the extent to which plan holders rely on PRC applications to demonstrate compliance for plan holder, PRC applications must also be updated correspondingly.

(b) Within eighteen months after the effective date of this chapter, all tank vessel plan holders and vessel umbrella plan holders must update their plans to comply with the following sections:

(i) Vessels of opportunity planning standard (WAC 173-182-317), Region I - Cape Flattery/Strait of Juan De Fuca.

(ii) Aerial surveillance planning standard (WAC 173-182-321(1)), Helicopter/fixed wing.

(iii) Dedicated on-water storage (WAC 173-182-335), at least twenty-five percent of the total worst case discharge requirement.

(iv) San Juan County planning standard (WAC 173-182-370), four hour planning standard.

(v) Neah Bay staging area (WAC 173-182-395), four hour planning standard.

(vi) Covered vessel planning standard for shoreline cleanup (WAC 173-182-522).

(vii) To the extent to which plan holders rely on PRC applications to demonstrate compliance for plan holder, PRC applications must also be updated correspondingly.

(c) Within thirty-six months after the effective date of this chapter, all tank vessel plan holders and vessel umbrella plan holders must update their plans to comply with the following sections:

(i) Vessels of opportunity planning standard (WAC 173-182-317), Region 2 - San Juan Islands/North Puget Sound.

(ii) Vessels of opportunity planning standard (WAC 173-182-317), Region 4 - Lower Columbia River.

(iii) Provide proposal for ecology review of the aerial surveillance planning standard (WAC 173-182-321(3)), Helicopter/fixed wing with forward looking infrared. Plan holder shall have an additional twelve months to have this asset staged and all plan updates finalized as applicable.

(iv) Covered vessel plan holder's technical manual requirement (WAC 173-182-349).

(v) Commencement Bay Quartermaster Harbor planning standard (WAC 173-182-380), four hour planning standard.

(vi) Cathlamet staging area (WAC 173-182-415), four hour planning standard.

(vii) To the extent to which plan holders rely on PRC applications to demonstrate compliance for plan holder, PRC applications must also be updated correspondingly.

(d) Within forty-eight months after the effective date of this chapter, all tank vessel plan holders and vessel umbrella plan holders must update their plans to comply with the following sections:

(i) Vessels of opportunity planning standard (WAC 173-182-317), Region 6 - Grays Harbor.

(ii) Vessels of opportunity planning standard (WAC 173-182-317), Region 3 - South Puget Sound and Central Puget Sound.

(iii) Vessels of opportunity planning standard (WAC 173-182-317), Region 5 - Admiralty Inlet, Hood Canal and North Puget Sound.

(iv) Grays Harbor planning standard (WAC 173-182-450), four hour planning standard.

(v) To the extent to which plan holders rely on PRC applications to demonstrate compliance for plan holder, PRC applications must also be updated correspondingly.

(4) Within eighteen months after the effective date of this chapter, all primary response contractors must update their applications to comply with the following section: Primary response contractor application content, submittal and review (WAC 173-182-810).

(5) Each plan update will be given a thirty day public review and comment period. Ecology will approve, disapprove, or conditionally approve the plan update no later than sixty-five days from the update submittal date.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-140 Plan maintenance ~~(and reporting obligations)~~. ~~((+))~~ At least once annually, plan holders shall review the entire plan for accuracy and either:

~~((+))~~ (1) Update and distribute the amended page(s) of the plan to ecology for review and approval; or

~~((+))~~ (2) If no plan changes are needed, send a letter to ecology confirming that the existing plan is still accurate.

~~((2) If there is a temporary, significant change to response readiness, the plan holder shall notify ecology in writing within twenty-four hours and provide a schedule for the prompt return of the plan to full operational status. Changes which are considered significant include loss of equipment that affects the planning standards provided in the plan, or permanent loss of initial response personnel listed in command and general staff ICS positions provided in the plan or changes in normal operating procedures. A facsimile or electronic mail will be considered sufficient written notice.~~

~~(3) Failure to notify ecology of significant changes shall be considered noncompliance with this chapter.~~

~~(4) If the change to the plan is permanent, the plan holder then shall have thirty calendar days to distribute the amended page(s) of the plan to ecology for review.~~

~~(5) If ecology finds that, as a result of a change, the plan no longer meets approval criteria; ecology may place conditions on approval or revoke approval of the plan:))~~

NEW SECTION

WAC 173-182-142 Significant changes to approved plans require notification. (1) At any point during the five year approval period, if there is a temporary or permanent significant change in the personnel or response equipment described in the plan, the plan holder shall:

(a) Notify ecology in writing within twenty-four hours of the change; and

(b) Provide both a schedule for the prompt return of the plan to full operational status and a proposal for any backfill to compensate for the temporary significant change. This proposal shall be reviewed by ecology.

(2) Changes which are considered significant include:

(a) Loss of equipment that results in being out of compliance with any planning standard;

(b) If greater than ten percent of available boom, storage, recovery, dispersants, in situ burn or shoreline clean-up equipment is moved out of the homebase as depicted on the WRRL;

(c) Transfers of equipment to support spill response for out-of-region spills;

(d) Permanent loss of initial response personnel listed in command and general staff ICS positions provided in the plan;

(e) Permanent loss of personnel designated as the binding agreement signer;

(f) Changes in normal operating procedures as described below:

(i) For facilities changes in the oil types handled; permanent changes in storage capacity; changes in handling or transporting of any product; permanent changes in oil processing; and

(ii) For vessels changes in the oil types handled.

(g) Changes in equipment ownership if used to satisfy a plan holder planning standard; or

(h) Modification or discontinuing of any mutual aid, letter of intent or contract agreement.

(3) Notification by facsimile or e-mail will be considered written notice.

(4) Failure to report changes in the plan could result in the loss of plan approval.

(5) If the proposed change to the plan is to be made permanent, the plan holder then shall have thirty calendar days from notification to ecology to distribute the amended page(s) of the contingency plan to ecology for review and approval.

(6) If ecology finds that, as a result of a change, the plan no longer meets approval criteria; ecology may place conditions on approval or disapprove the plan.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-145 Plan implementation procedures.

~~((+))~~ Every plan holder, including each person whose vessel ~~((or facility))~~ enrolls in coverage under an umbrella plan, is required to implement the Washington approved plan ~~((throughout the))~~ in any response to a spill and drill. A decision to use a different plan must first be approved by the state and federal on-scene coordinators.

~~((2))~~ Approval from ecology must be received before any significant aspect of the spill response is conducted in a manner contrary to the plan unless:

~~(a) Such actions are necessary to protect human health and safety; or~~

~~(b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or~~

~~(c) State and federal on-scene coordinators have directed such actions;)~~

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-220 Binding agreement. (1) Each plan shall contain a written statement binding the plan holder to its use. Form number ECY 070-217 may be used. The binding agreement shall be signed by the plan holder, owner or operator, or a designee with authority to bind the owners and operators of the facility or vessel covered by the plan. In the case of an umbrella plan, the umbrella plan holder that submitted the umbrella plan on behalf of enrolled vessels must sign the binding agreement. The agreement is submitted with the plan and will include the name, address, phone number, and if appropriate the e-mail address, and web site of the submitting party.

(2) In the statement, the signator will:

(a) Verify acceptance of the plan and commit to a safe and immediate response to spills ~~((in Washington))~~ and to substantial threats of spills that occur in, or could impact Washington waters or Washington's natural, cultural and economic resources;

(b) Commit to having an incident commander in the state within six hours after notification of a spill;

(c) Commit to the implementation and use of the plan during a spill and substantial threat of a spill, and to the training of personnel to implement the plan; ~~((and))~~

(d) Verify authority and capability of the plan holder to make necessary and appropriate expenditures in order to implement plan provisions; and

(e) Commit to working in unified command within the incident command system to ensure that all personnel and equipment resources necessary to the response will be called out to cleanup the spill safely and to the maximum extent practicable.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-230 Contingency plan general content. (1) Contingency plans must include all of the content and meet all the requirements in this section.

(2) In Washington state, the NWACP serves as the state-wide master oil and hazardous substance contingency plan required by RCW 90.56.060. Plan holders shall write plans that refer to and are consistent with the NWACP.

(3) All contingency plans must include the following:

(a) Each plan shall state the federal or state requirements intended to be met by the plan.

(b) Each plan shall state the size of the worst case spill.

(i) For transmission pipelines, more than one worst case spill volume for different line sections on the entire pipeline may be submitted to ecology for consideration.

(ii) For vessel umbrella plans ~~((, a worst case volume for each port of operation may be submitted to ecology for consideration, if the operations of enrolled vessels differ by port))~~ that enroll both tank vessels and nontank covered vessels, specify the worst case discharge volume and product type for both tank and nontank covered vessels for each port covered by the contingency plan.

(iii) For multiple facilities using a single umbrella plan, separate worst case spill volumes are required for each facility.

(c) Each plan shall have a log sheet to record revisions and updates to the plan. The log sheet shall identify each section amended, including the date of the amendment, verification that ecology was notified and the name of the authorized person making the change. A description of the amendment and its purpose shall also be included in the log sheet, or filed as an amendment letter to be inserted in the plan immediately after the log sheet.

(d) Each plan shall have a cross-reference table reflecting the locations in the plan of each component required by this chapter.

(e) Each plan shall have the PRC's name, address, phone number, or other means of contact at any time of the day.

(i) A contract or letter summarizing the terms of the contract signed by the PRC, shall be included in the plan.

(ii) If the entire contract is not submitted, that document shall be available for inspection, if requested by the department.

(iii) For mutual aid agreements that a plan holder relies on to meet the planning standards, the plan shall include a copy of the agreement and describe the terms of that document in the plan.

(iv) If a plan holder relies on a PRC or other contractor to staff ICS positions for the spill management team, then the commitment must be specified in writing.

(v) If the entire contract for additional spill management team support is not included in the plan, that document shall be made available for inspection, if requested by ecology.

(f) Each plan must contain the procedures to track and account for the entire volume of oil recovered and oily wastes generated and disposed of during spills. The responsible party must provide these records to ecology upon request.

(4) Additional facility plan content.

Facility plans shall include:

(a) The name, location, type and address of the facility;

(b) Starting date of operations;

(c) Description of the operations covered by the plan:

(i) List the oil handling operations that occur at the facility location.

(ii) Inventory all tanks and list ~~((by))~~ the tank capacity;

(iii) All oil(s) or product(s) handled by name and include: density, gravity, API, oil group ~~((and amount the oil handled))~~ number, and sulfur content (sweet/sour).

~~((iii))~~ (iv) Include a written description and map indicating site topography, storm water and other drainage systems, mooring areas, pipelines, tanks, and other oil processing, storage, and transfer sites and operations.

~~((iv))~~ (v) A description of the geographic area that could be impacted from a spill at the location based on a forty-eight hour worst case spill trajectory analysis.

(5) Additional vessel plan content:

(a) Name of each vessel covered under the plan;

(b) The name, location, and address of the owner or operator;

(c) Official identification code or call sign;

(d) Country of registry;

(e) All ports of call or areas of expected operation in Washington waters;

~~((f))~~ ~~((Type of oil(s) handled (group);~~

~~((g))~~ ~~((Oil volume capacity by group;~~

~~((h))~~ List all oil(s) or product(s) by name and include: density, gravity, API, oil group number, sulfur content (sweet/sour) and general ship capacity for amounts carried as cargo or fuel:

~~((g))~~ Description of the operations covered by the plan ~~((include a written description));~~ and

~~((h))~~ A diagram indicating cargo, fuel, and ballast tanks and piping, power plants, and other oil storage and transfer sites and operations.

(6) Special exemptions for vessel umbrella plans shall, at a minimum, include the following:

(a) In lieu of providing vessels names, call signs and country of registry, vessel umbrella plan holders shall maintain accurate enrollment or member lists with vessel specific information provided by covered vessels and shall ~~((make the information available to ecology upon request))~~ provide ecology twenty-four hour access to the enrolled vessels list via the internet in a format acceptable to ecology. The list shall be updated daily, or at a minimum every three days. The list must at a minimum include the following:

(i) Vessel name;

(ii) Vessel type;

(iii) Worst case discharge oil type and quantity;

(iv) The name and API gravity of the densest oil being handled on the enrolled vessels;

(v) Qualified individual/spill management team;

(vi) Agent;

(vii) PRC/supplemental resources provider; and

(viii) Protection and indemnity (P&I) club.

(b) Umbrella plans for vessels shall include a list of the types of vessels and the typical oil types by group and volumes. In addition, vessel diagrams indicating cargo, fuel, and ballast tanks and piping, power plants, and other oil storage and transfer sites and operations shall be available for inspection by ecology. The procedure for the plan holder to acquire vessel diagrams needs to be documented in the plan.

(7) Plans shall include concise procedures to establish a process to manage oil spill liability claims of damages to persons or property, public or private, for which a responsible party may be liable.

NEW SECTION

WAC 173-182-232 Requirements for vessel umbrella plans maintaining additional agreements for supplemental resources. (1) Approved umbrella plans provide an efficient and cost-effective mechanism for enrolling vessel owner and operators in contingency plan coverage. Umbrella plans provide response resources to meet the requirements of this chapter. The umbrella plan may be approved for more than one worst case discharge, by port, in areas of operation covered by the plan. Any owner or operator of a covered vessel having a worst case discharge volume that exceeds resources under contract to the umbrella plan may still enroll only if, the vessel owner or operator maintains a contract with another primary response contractor that will provide supplemental response resources, and if those combined resources are sufficient to meet the requirements of this chapter. The vessel owner or operator must provide documentation that authorizes the umbrella plan holder to activate the supplemental response resources, sufficient to meet the worst case discharge of the covered vessel, during a drill, spill or substantial threat of a spill. Documentation must demonstrate the agreement and includes, but is not limited to, authorized representative and commitment letters from contractors, qualified individuals, insurance representatives, member signed enrollment agreements or other letters of intent.

(2) The plan must describe the process for activation of the supplemental resources and shall include the documentation described in subsection (1) of this section. The process for accessing supplemental equipment will be tested in drills.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-240 Field document. (1) Each plan shall contain a field document which lists time critical information for the initial emergency phase of a spill and a substantial threat of a spill. The owner or operator of the covered vessel or facility shall make the field document available to personnel who participate in oil handling operations and shall keep the field document in key locations at facilities, docks, on vessels and in the plan. The locations where field documents are kept must be listed in the plan, provided that vessel umbrella plan holders shall not be subject to enforcement if

the owner or operator of an enrolled vessel fails to keep the field documents in the location specified in the plan.

Umbrella vessel plans shall include procedures to ensure each vessel covered by the plan is provided the field document prior to entering Washington waters. This can include by electronic means.

(2) At a minimum, the field document shall contain:

(a) A list of the procedures to detect, assess and document the presence and size of a spill;

(b) Spill notification procedures and a call out list that meets the requirements in WAC 173-182-260 and 173-182-262 or 173-182-264 as applicable; and

(c) A checklist that identifies significant steps used to respond to a spill, listed in a logical progression of response activities.

NEW SECTION

WAC 173-182-242 Additional requirements for vessel plan holders with access to the emergency response system at Neah Bay. (1) Covered vessels that transit to or from a Washington port through the Strait of Juan de Fuca, except for transits extending no further west than Race Rocks Light, on Vancouver Island, Canada, must include the following information in their contingency plan:

(a) Documentation of the vessel owner/operators contracted access to an emergency response towing vessel (ERTV) at Neah Bay;

(b) Detailed information about the ERTV's capabilities and circumstances of potential activation and call out;

(c) A commitment in the plan to participate in drills that test compliance with the requirements of RCW 88.46.135; and

(d) Procedures for call out of the ERTV must be included in the field document.

(2) Plan holders may request drill credit for an actual deployment of the tug to respond to a spill or vessel emergency, provided the plan holder follows the requirements in WAC 173-182-730.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-260 Notification and call-out procedures. (1) Each plan shall include procedures which will be taken to immediately notify appropriate parties that a spill has occurred. The plan shall identify the central reporting office or individuals responsible for implementing the notification process.

(2) Each plan shall include a list of the names and phone numbers of required notifications to government agencies, response contractors and spill management team members, except that the portion of the list containing internal call down information need not be included in the plan, but shall be available for review by ecology upon request and verified during spills and drills.

(3) The procedure shall establish a clear order of priority for immediate notification.

~~((4) In addition, facility plans shall also address how notifications will be made to required government agencies~~

~~for spills to ground or into permeable secondary containment, and threatened or confirmed spills to groundwater.))~~

NEW SECTION

WAC 173-182-262 Vessel notification requirements for a discharge or substantial threat of a discharge. (1)

The owner or operator of a covered vessel must notify the state through the Washington emergency management division of a discharge or substantial threat of a discharge. Notification must be made within one hour of the discharge or substantial threat of a discharge, or as soon as is feasible without further endangering the vessel or personnel.

(2) Vessel discharge notifications are in addition and made subsequent to notifications that the owner or operator of a covered vessel must provide to the United States Coast Guard. Vessels enrolled in umbrella plans must notify the umbrella plan holder in addition to the state, unless the state has already been notified by the umbrella plan holder on behalf of the vessel owner or operator.

(3) Notification of the discharge or substantial threat of a discharge initiates activation of the plan. Upon notification the vessel owner/operator will coordinate as appropriate with:

(a) The state of Washington and the United States Coast Guard to take any necessary actions to protect the public health, welfare, and natural resources of the state; and

(b) The umbrella plan holder for plan implementation as described in the plan.

(4) Notification procedures must be included in the plan.

(5) The substantial threat of a discharge may be determined or affected by the following conditions:

(a) Ship location and proximity to land or other navigational hazards;

(b) Weather;

(c) Tidal currents;

(d) Sea state;

(e) Traffic density;

(f) Condition of vessel; and

(g) Timing or likelihood of vessel repairs.

NEW SECTION

WAC 173-182-264 Notification requirements for facility spills to ground or containment that threaten waters of the state. (1) Facility plans shall contain procedures for notifications for spills to ground and to permeable secondary containment that threaten to impact waters of the state.

(a) All spills are considered reportable spills except;

(i) Spills which are known to be less than forty-two gallons that do not impact surface or groundwater.

(ii) CERCLA releases.

(iii) On-facility air releases to the atmosphere only.

(iv) Releases from underground storage tanks regulated under chapter 173-360 WAC.

(v) Preexisting sources of releases identified as RCRA solid waste management units.

(vi) Spills contained within areas controlled by NPDES permitted systems that are not likely to threaten groundwater and do not exceed applicable federal reportable quantities.

(b) A spill is considered to have not impacted ground if it occurs on a paved surface such as asphalt or concrete. A spill to dirt or gravel is considered to have impacted ground and is reportable.

(2) Plan holders must also include procedures in their plan to address spills of an unknown volume. When addressing a spill of an unknown volume, plan holders shall use best professional judgment and may consider the following circumstances in determining when to make notifications:

(a) Whether the spill is ongoing; and

(b) Whether the spill is located in an area that is adjacent to waters of the state or where there is a pathway to waters of the state, and the environmental conditions, such as rain events, or known shallow groundwater make impacts to waters of the state likely.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-280 Spill management teams. (1) Each plan shall contain information on the personnel (including contract personnel) who will be available to manage an oil spill response. To meet the requirement, the plan shall include:

(a) An organizational diagram depicting the chain of command for the spill management team for a worst case spill.

(b) For the purpose of ensuring depth of the spill management team, an organization list of one primary and one alternate person to lead each ICS spill management position down to the section chief and command staff level as depicted in the NWACP standard ICS organizational chart. In lieu of being placed in the plan, this list may be maintained at the plan holder's office and be made available to ecology upon request. If a response contractor is used to fill positions, they must agree in writing to staff the positions. The capacity and depth of spill management teams will be evaluated in drills and spills.

(c) A job description for each spill management position; except if the plan holder follows without deviation the job descriptions contained in the NWACP. If the job descriptions are consistent with the NWACP, then the plan holder may reference the NWACP rather than repeat the information.

(d) A detailed description of the planning process which will be used to manage a spill. If the process is consistent with the NWACP then the plan holder may reference the NWACP rather than repeat the information.

(2) The plan shall address the type and frequency of training that each individual listed in subsection (1)(b) of this section receives. The training program at a minimum shall include as applicable ICS, NWACP policies, use and location of GRPs, the contents of the plan and worker health and safety. The training program shall include participation in periodic announced and unannounced exercises and participation should approximate the actual roles and responsibilities of the individual specified in the plan. New employees shall complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

(3) Covered vessel plan holders shall identify a primary and alternate incident commander's representative that can form unified command at the initial command post, and if located out-of-state, a primary and alternate incident commander that could arrive at the initial command post within six hours. The plan shall include estimated time frames for arrival of the remainder of the spill management team to the spill site, or at the incident command post as appropriate.

(4) The plan shall list a process for orderly transitions of initial response staff to incoming local, regional or away team personnel, including transitions between shift changes.

(5) Covered vessel umbrella plans must maintain a list of the spill management team(s) for each vessel enrolled under the plan, and must describe the transition process from umbrella plan personnel to the incoming vessel owner or operator's team. The plan must include checklists and documentation to facilitate an effective transition.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-315 Facility planning standards for nondedicated work boats and operators. Each facility plan holder shall plan to obtain nondedicated work boats and operators that will be available to deploy GRPs, enhance skimming, and to provide ((platforms as vessel of opportunity skimming systems,)) logistical support or other uses during a spill. At a minimum, the plan shall describe a plan that will support the worst case spill response with work boats and operators that could have arrived on scene beginning at forty-eight hours.

NEW SECTION

WAC 173-182-317 Covered vessel planning standards for vessels of opportunity (VOO). (1) This section applies to owners and operators of covered vessels and covered vessel plan holders who are required to have a plan for the use of VOO. In order to enhance the ability to respond to spills using nondedicated resources, Washington state approved PRCs cannot be identified in the plan as VOO. The VOO may be used in the following ways:

(a) Protecting of sensitive habitats through the placement of oil spill booms;

(b) On-water oil recovery in the nearshore environment;

(c) Providing logistical spill response support; or

(d) Supporting other tactical actions.

(2) In order for a commercial vessel to be considered for the VOO program, the owner or operator will self-register through the on-line process developed by ecology, or through use of a form provided by ecology. VOO operators must renew their information annually, and will supply the following information as applicable to the vessel:

(a) Name of vessel;

(b) Length of vessel;

(c) Year, make, and model of the vessel;

(d) Vessel engine type(s) and horsepower;

(e) Number of passengers certified to carry;

(f) Number of cabins/berths;

(g) The vessel's Lloyds Registry and/or International Maritime Organization (LR/IMO) number or official number;

(h) Vessel operator contact information;

(i) Vessel crew training records relevant to oil spill response;

(j) Date of the most recent marine survey;

(k) Date of the most recent USCG compliance inspection or boarding;

(l) Date of expiration of USCG Certificate of Compliance or Certificate of Inspection, or Fishing Vessel Safety Examination Decal.

(m) Vessel P&I club affiliation;

(n) Vessel homeport and vessel hailing port;

(o) Residence(s) of vessel owner and crew;

(p) Tactics vessel would like to support;

(q) Seasonal operations of the vessel;

(r) Drug testing program for captain and crew; and

(s) Plan holder or PRC with which the vessel is contracted. VOO operators may contract with multiple plan holders or primary response contractors.

(3) In order for a recreational vessel to be considered for the VOO program the owner or operator will self-register through the on-line process developed by ecology, or through use of a form provided by ecology. VOO operators must renew their information annually, and will supply at a minimum the following information to the extent applicable to the vessel:

(a) Name of vessel;

(b) Length of vessel;

(c) Year, make, and model of the vessel;

(d) Vessel engine type(s) and horsepower;

(e) Number of cabins/berths;

(f) The state registration number and/or USCG documentation number or other official number;

(g) Vessel owner contact information;

(h) Vessel owner/crew training relevant to oil spill response;

(i) Date of the most recent marine survey;

(j) Date of the most recent USCG Auxiliary Docksides Courtesy Inspection;

(k) Vessel insurance information and coverage plan;

(l) Vessel homeport and vessel hailing port;

(m) Tactics vessel would like to support;

(n) Residence of vessel owner; and

(o) Plan holder or PRC with which the vessel is contracted. VOO operators may contract with multiple plan holders or primary response contractors.

(4) For planning purposes VOO will be organized by regions, see map of VOO regions below. The regions are designed to ensure adequate numbers of VOO for contracting. Covered vessel plan holders shall have contracted access to VOO in the regions they transit or operate. VOO from all regions may be cascaded into the spill area if the VOO capability is appropriate for the operating environment. The regional areas include:

(a) Region 1: Cape Flattery/Strait of Juan de Fuca.

(b) Region 2: San Juan Islands/North Puget Sound.

(c) Region 3: South Puget Sound/Central Puget Sound.

(d) Region 4: Lower Columbia River.







(e) Region 5: Admiralty Inlet/Hood Canal and North Central Puget Sound.

(f) Region 6: Grays Harbor.

Vessel of Opportunity Regions



NOTE: In the event of a spill VOOs from any region may be called to the site to assist with the response.

Legend	
Region	
	1- Strait of Juan de Fuca
	2- San Juan Islands/ North Puget Sound
	3- South Puget Sound and Central Puget Sound
	4-Lower Columbia River
	5- Admiralty Inlet/Hood Canal and North Central Puget Sound
	6- Grays Harbor

Region	Minimum Number of Tier 1 Vessels
1	18
2	12
3	12
4	12
5	12
6	6

Map Created by WA Department of Ecology, Spill Preparedness Section, 12/3/2012

(5) For each region a vessel plan holder transits or operates the plan holder must have a contract with the prescribed number of Tier I VOO below. VOO are nondedicated resources; the minimum number of VOO required assumes that one out of every two contracted vessels may be available at any time. In each region a percentage of the VOO must be

pretrained and capable of the following tactics: On-water recovery in the nearshore environment, protection of sensitive areas, and logistical support with no more than fifty percent to be pretrained exclusively for logistical support.

(a) Region 1: Plan holders must have contracts with a minimum of eighteen VOO at the Tier I level.

(b) Region 2: Plan holders must have contracts with a minimum of twelve VOO at the Tier I level.

(c) Region 3: Plan holders must have contracts with a minimum of twelve VOO at the Tier I level.

(d) Region 4: Plan holders must have contracts with a minimum of twelve VOO at the Tier I level.

(e) Region 5: Plan holders must have contracts with a minimum of twelve VOO at the Tier I level.

(f) Region 6: Plan holders must have contracts with a minimum of six VOO at the Tier I level.

(6) Plan holder obligations, as identified within this section, are subject to an adequate number of suitable and capable vessels enrolling with ecology. Plan holders may propose for review and approval an alternative planning standard for a VOO region if, after a good faith effort to contract with the minimum numbers of VOO, the plan holder is not successful. The alternative proposal must provide an equivalent or higher level of protection in terms of spill preparedness and response when compared with the planning standard. This proposal will be subject to a thirty-day public review and comment period, which includes, but is not limited to, interested local and tribal governments and other stakeholders. The alternative proposal must include:

(a) Documentation that there are insufficient numbers of VOO registered.

(b) Documentation describing the selection criteria and a description of how the Tier II enrolled vessels do not meet the criteria.

(c) A detailed description of the alternative being proposed.

(7) Vessels of opportunity will be designated in one of the following two tiers:

(a) Requirements for Tier I designated vessels include:

(i) Under contract with the plan holder.

(ii) Pretrained crew through a combination of classroom training, computer based education, equipment familiarization, and field training exercises appropriate to the tactics the vessel may be assigned, including:

(A) HAZWOPER training must be appropriate to the tactics the vessel may be assigned as set forth in Title 29 of Code of Federal Regulations (C.F.R.) 1910.120;

(B) Basic incident command system training;

(C) Participation annually in at least one on-water training for the tactics for which the VOO is contracted;

(D) Participate in at least one on-water deployment drill every three years.

(iii) The department shall be invited to attend all VOO training events.

(iv) Training records must be maintained for a period of five years. Training records shall be made available to the department upon request.

(v) The vessel should agree under contract to make best efforts, if available, to mobilize within twelve hours of call out with crew as trained per this section.

(b) Tier II designated vessels include: Commercial and recreational vessels that self-identify their interest in participation in the VOO program but are not under contract to a plan holder. Vessel plan holders shall describe in their contingency plan the process for rapidly training and contracting the Tier II vessels for at least logistical support tactics.

(8) VOO drill requirements:

(a) Plan holders shall incorporate Tier I VOO into deployment drills and tabletop drills.

(b) Tabletop drills may incorporate simulated call out of vessels of opportunity by identifying the vessel and crew available to respond on the day of the drill. Data collected during the simulated call out shall include vessel name, crew names, estimated time of arrival on scene, availability on the day of the spill and the ability to support the response over days or weeks, and the task force or staging assignment of the vessel of opportunity.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-320 Facility planning standards for aerial surveillance. Each facility plan shall provide for aerial oil tracking resources capable of being on-scene within six hours of spill (~~(awareness)~~) notification. At a minimum, these resources must be capable of supporting oil spill removal operations for three, ten-hour operational periods during the initial seventy-two hours of the discharge.

NEW SECTION

WAC 173-182-321 Covered vessel planning standards for aerial surveillance. Covered vessels operating or transiting the lower Columbia River, Grays Harbor, Strait of Juan de Fuca, Puget Sound, or Washington coast, shall document the following aerial surveillance capability through the plan:

(1) Access to a helicopter or fixed wing, under contract or other approved means, that is appropriately located and could have arrived with a trained aerial oil spill spotter (spotter) to those planning standard areas plan holders operate or transit within six hours of spill notification. The contracted asset must have the following capability:

(a) Be capable of supporting oil spill containment and removal operations by providing oil spotting capability for at least ten hours per day during the initial seventy-two hours of an oil discharge.

(b) Have a trained spotter on board the aerial asset capable of acquiring, interpreting, recording and communicating oil location and other information to the command post or field operations at regular intervals. The spotter must be equipped with a high definition photographic or video capability and be able to collect and disseminate the following data about the environmental and operational picture including the location of the oil, environmental impacts, and spill resources on-scene:

(i) Latitude and longitude of the location, impacts, or spill resources;

(ii) Azimuth and altitude that the picture was taken;

(iii) Bearing that the picture was taken;

(iv) Estimated extent of oiling; and

(v) Time and date.

(2) Plans must also include logistical sources of additional resources not under contract that may be utilized as additional spotting resources to maximize the effectiveness of enhanced skimming, or as resources to identify the extent

of oil to inform shoreline clean-up and assessment teams and shoreline clean-up activities.

(3) In order to provide best achievable technology for aerial oil surveillance, vessel plan holders must also provide for access to a helicopter or fixed wing asset, under contract or other approved means, with the capability to provide a strategic picture of the overall spill; assist in location of slicks when they are not visible by persons operating at, or near, the water's surface or at night; extend the hours of clean-up operations to include darkness and poor visibility; identify oceanographic and geographic features toward which oil may migrate.

(a) The aerial asset must be appropriately located and could have arrived with trained aerial observers to those planning standard areas plan holders operate or transit within twelve hours of spill notification.

(b) The aerial asset must be equipped with a suite of equipment that could support the capabilities described in this subsection. At least two remote sensing systems must be included in the suite and one of them must be a high definition mounted infrared (IR) camera designed to support aerial operations from aerial platforms. If the IR camera is not mounted, then plan holders must demonstrate how the handheld system will be effective from an aerial platform. Plan holders must submit for approval the systems included in the suite. For the IR camera, the following capability descriptions must be included in the submission:

(i) IR camera with sensors capable in the thermal or mid-IR range;

(ii) A sensor which provides high resolution for airborne imaging;

(iii) Continuous optical zoom capability appropriate for use from an aerial platform;

(iv) Tested minimum thermal resolution and/or the tested minimum resolvable temperature difference; and

(v) Plan holders must submit for review and approval the systems included in the suite. Plan holders may submit for review and approval alternative testing data. This alternative proposal will be subject to a thirty-day public review and comment period which includes, but is not limited to, interested local and tribal governments and other stakeholders.

(c) The trained oil spill aerial observer on board could begin gathering the following from the scene of the spill once on-site:

(i) Graphically displaying processed multispectral data (at a minimum displaying the IR and optical windows), photographic images and other information onto electronic marine charts creating high contrast composite images;

(ii) Ability to reference a map image to a geographic location;

(iii) Location extent and relative thickness information for a reported oil sheen or slick;

(iv) Transmitting processed images and other information to the unified command primary command post;

(v) Archiving all processed data and images; and

(vi) Integrating spill images and other information with spill management software.

(4) Plan holders must have access to personnel trained in aerial surveillance and as spotters to direct skimmers into the thickest oil to enhance on-water recovery and to support the

activities described above. The names of individuals with this training, their home base and training levels must either be listed in the plan or made available to ecology upon request. At a minimum, personnel must be trained in aerial observation at the level set forth in federal regulations currently located at 33 C.F.R. 155.1050 (l)(2)(iii). A copy of this regulation is available through ecology upon request.

NEW SECTION

WAC 173-182-324 Planning standards for Group 5 Oils. (1) Plan holders carrying, handling, storing, or transporting Group 5 Oils must have a contract with a PRC that maintains the resources and/or capabilities necessary to respond to a spill of Group 5 Oils. Such equipment shall include, but is not limited to, the following:

(a) Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;

(b) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;

(c) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;

(d) Equipment necessary to assess the impact of such discharges; and

(e) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled, stored, or transported.

(2) The equipment must be capable of being on scene within twelve hours of spill notification.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-325 Planning standards for dispersants. (1) Plan holders with vessels carrying Group ((H)) 2 or ((HH)) 3 persistent oil as a primary cargo that transit in any area where preapproval or case-by-case use of dispersants is available as per the NWACP, must plan for the use of dispersants.

(2) The plan holder must identify the locations of dispersant stockpiles, and dispersant type, capable of dispersing the lesser of five percent of the worst case spill volume or twelve thousand barrels per day, using a dispersant to oil ratio of one to twenty.

(3) The plan holder must describe the methods of transporting equipment and supplies to a staging area, and appropriate aircraft or vessels to apply the dispersant and monitor its effectiveness.

(4) The plan holder must describe operational support capability, including the platforms and spotters used to deploy dispersants, monitor the operational efficacy of the dispersant application to support operational decision making, and ensure safety of response personnel.

(5) These resources must be capable of being on scene within twelve hours of spill (~~awareness~~) notification.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-330 Planning standards for in situ burning. (1) Based on the NWACP, plan holders operating in areas where in situ burning has an expedited approval process must plan for the use of in situ burning.

(2) The plan holder must identify the locations of two fire booms, air monitoring equipment, igniters and aircraft or vessels to be used to deploy the igniters.

(3) The fire booms must be five hundred feet in length each and have an additional one thousand feet of conventional boom, tow bridles and work boats capable of towing the boom for burning operations.

(4) The plan holder must describe the methods of transporting the equipment to a staging area, and appropriate aircraft or vessels to monitor its effectiveness at the scene of an oil discharge.

(5) These resources must be capable of being on scene within twelve hours of spill (~~awareness~~) notification.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-335 Planning standards for storage.

(1) Plan holders shall identify both on-water devices and shoreside interim storage locations.

(a) For marine waters, shoreside storage can be identified to meet fifty percent of storage requirements in the tables below, if the plan holders can demonstrate that recovered oil can be transported to the shoreside storage.

(b) For freshwater environments, shoreside storage can be identified to meet sixty-five percent of the storage requirements in the tables below, if the plan holders can demonstrate that recovered oil can be transported to the shoreside storage.

(2) For covered vessel plan holders, at least twenty-five percent of the total worst case discharge volume at twenty-four hours, from the planning standard tables below, must be dedicated to on-water storage.

NEW SECTION

WAC 173-182-349 Covered vessel plan holders technical manuals. (1) Each covered vessel plan holder that operates or transits in the Neah Bay, Cathlamet, or San Juan Islands planning standard areas must provide a technical manual that includes all of the equipment appropriate for the operating environment that is necessary to meet the recovery and storage requirements, through the forty-eight hour time frame.

(2) The technical manuals will be used to inform the five year BAP cycle and support ecology's determination that the response systems, training levels, and staffing demonstrate best available protection.

(3) Plan holders must use a systems approach to identify the equipment, including WRRL identification or other unique identification numbers, that will be used to describe the response systems in the technical manual. For each recovery system described include the following:

(a) An operational picture or diagram of the recovery system, the EDRC for the system, and associated temporary storage;

(b) The infrastructure and support resources necessary for deployment;

(c) Associated vessels necessary to enhance the skimmer;

(d) At least three hundred feet of boom to enhance the skimmer or an alternative based on manufacturers recommendations;

(e) The mobilization time and home base for the equipment;

(f) The ownership or mechanism for accessing the equipment for example, under contract, subcontract or letter of intent to the plan holder or other approved means;

(g) If applicable, the ability of the recovery system to be used to support night operations;

(h) The minimum number of personnel necessary to deploy the equipment for a twelve hour shift and the training level of personnel appropriate to operate the equipment and carry out recovery;

(i) If alternative speeds are given for equipment associated with a recovery system the information should be included in the equipment description; and

(j) The oil type(s) the associated skimmer is optimized for.

(4) For the storage requirement include the following:

(a) An operational picture or diagram and capacity of the storage system;

(b) The infrastructure and support resources necessary for deployment;

(c) The mobilization time and home base for the equipment;

(d) The ownership or mechanism for accessing the equipment for example under contract, subcontract or letter of intent to the planholder or other approved means;

(e) The minimum number of personnel necessary to deploy the equipment for a twelve hour shift and the training level of personnel appropriate to operate the equipment;

(f) If applicable the ability of the storage system to be used to support night operations;

(g) If alternative speeds are given for equipment associated with the storage device the information should be included in the equipment description.

(5) The technical manual is a standalone planning standard and is not intended to be used to demonstrate compliance with any other planning standards. Technical manuals are not intended to bind the use of any specific tactics during a drill or spill or to imply a guarantee of what will occur in a real spill event.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-350 Documenting compliance with the planning standards. The plan holder shall describe how the planning standards found in this chapter are met.

(1) Each plan shall provide a spreadsheet on the resources intended to meet the planning standards as described in this chapter. This spreadsheet shall account for

boom, recovery systems, storage, and personnel by type, quantity, home base and provider.

(2) Ecology will analyze the planning standard spreadsheet provided to determine whether the plan holder has access to equipment and personnel necessary to meet the planning standards.

(3) For purposes of determining plan adequacy, plan holders will include time for notification and mobilization of equipment and personnel. The time needed for a resource to move to the spill site is the sum of the notification, mobilization, and travel times. For dedicated resources owned by the plan holder, the mobilization planning factor to be used by the plan holder, PRC and ecology is thirty minutes. For all other dedicated response equipment the mobilization planning factor is one hour. Nondedicated resources shall have a mobilization planning factor of three hours or the time specified in the letter of intent, mutual aid agreement or contract.

(4) Equipment travel speeds shall be computed using a speed of thirty-five miles per hour for land and five knots for water. Ecology ~~((will))~~ may use geographic information systems

(GIS), standard nautical charts ((and)), street maps and available on-line mapping programs to determine the length of time it will take equipment to cover a given distance.

(5) Plan holders may request approval for alternative notification, mobilization, and travel time by providing documentation to justify the request, such as actual performance during spills or unannounced drills.

(a) The request shall include date and time of performance or test, under average or typical weather/sea state conditions and transportation information.

(b) If ecology accepts these alternative response times, then these response times will be tested in unannounced drills or spills to verify alternative calculations.

(c) If ecology grants plan holder or PRC owned response equipment an alternative mobilization, transit speed, recovery or storage volume, through the plan review process, and the alternative is not demonstrated to the satisfaction of the department during a drill or spill, it may result in disapproving the alternative.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-370 San Juan County planning standard. Those covered vessel and facility plan holders that transit or operate within San Juan County must meet this standard. The resources to meet the two and three hour standards must be resident.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
2	A safety assessment of the spill by work boat with trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		
3	Additional 2,000 feet of boom, or 4 times the length of the largest vessel whichever is less, to be used for containment, protection or recovery could have arrived		
4	<u>At least an additional 200 feet of boom and temporary storage of at least 196 barrels with the ability to collect, contain, and separate collected oil from water could have arrived. The additional boom should be capable of encountering oil at advancing speeds of at least 2 knots in waves. This boom shall be of a type appropriate for the operating environment</u>		
6	Additional 10,000 feet combination of appropriate types of boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,500 barrels within 24-hour period could have arrived	1 times the EDRC
12	Additional 20,000 feet combination of appropriate types of boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived	1.5 times the EDRC

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
24	Additional 20,000 feet combination of appropriate types of boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	2 times the EDRC
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-375 Padilla Bay planning standard. Those covered vessel and facility plan holders that transit or operate north of State Highway 20, east of a line drawn from Shannon Point on Fidalgo Island to Kelly's Point on Guemes Island, south of a line drawn from Clark Point on Guemes Island and William Point on Sammish Island must meet the following standards. Some of the GRPs may be deployed by land.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
1.5	A safety assessment of the spill by trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		
2	Additional 2,000 feet of boom, or 4 times the length of the largest vessel whichever is less, to be used for containment, protection or recovery could have arrived		
6	Additional 10,000 feet of appropriate types of boom for containment, protection or recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,500 barrels within 24-hour period could have arrived. 50% must be able to work in shallow water environments((--)). Depth of 10 feet or less	1 times the EDRC
12	Additional 20,000 feet of appropriate types of boom for containment, protection or recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived on scene. At least 20% of the skimming capability must be able to work in shallow water environments ((--)). Depth of 10 feet or less	1.5 times the EDRC
24	Additional 20,000 feet of boom for containment, protection or recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	2 times the EDRC
48	More boom necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-380 Commencement Bay((--))Quartermaster Harbor planning standard. Those covered vessel and facility plan holders that transit or operate within a five nautical mile radius of a point at Lat. 47°19'29"N Long. 122°27'23"W (WGS 1984) must meet the following standards.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
1.5	A safety assessment of the spill by work boat with trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
2	Additional 2,000 feet of boom, or 4 times the length of the largest vessel whichever is less, to be used for containment, protection or recovery could have arrived		
4	<u>At least an additional 200 feet of boom and temporary storage of at least 196 barrels with the ability to collect, contain, and separate collected oil from water could have arrived. The additional boom should be capable of encountering oil at advancing speeds of at least 2 knots in waves. This boom shall be of a type appropriate for the operating environment</u>		
6	Additional 10,000 feet of appropriate types of boom for containment, protection or recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,500 barrels within 24-hour period could have arrived	1 times the EDRC
12	Additional 20,000 feet of appropriate types of boom for containment, protection or recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived	1.5 times the EDRC
24	Additional 20,000 feet of boom for containment, protection or recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	2 times the EDRC
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-395 Neah Bay staging area. Those covered vessel and facility plan holders that transit or operate within a five nautical mile radius of a point at Lat. 48°23'06"N Long. 124°35'59"W (WGS 1984) must meet the following standards. This area is very rugged, in order to accomplish deployment of resources logistical considerations will need to be planned for. Access to GRP locations may need to be done by helicopter or by land access, plans must identify all of the equipment that could be used to deploy GRPs. The boom and recovery resources to meet the two, three, four and six hour standards must be resident.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
2	A safety assessment of the spill by work boat with trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		
3	Additional 2,000 feet or 4 times the length of the largest vessel of open water boom whichever is less, to be used for containment, protection or recovery could have arrived		
4	<u>At least an additional 200 feet of boom and temporary storage of at least 196 barrels with the ability to collect, contain, and separate collected oil from water could have arrived. The additional boom should be capable of encountering oil at advancing speeds of at least 2 knots in waves.</u>		

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
	<u>This boom shall be of a type appropriate for the operating environment</u>		
6	Additional 6,000 feet of boom with at least 4,000 feet of open water boom for containment, protection and recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,500 barrels within 24-hour period could have arrived. 100% of the recovery devices must be able to work in open water environments	1 times the EDRC
12	Additional 20,000 feet of boom combination of types appropriate for containment, protection and recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived. At least 60% of the skimming capability must be able to work open water environments	1.5 times the EDRC
24	Additional 20,000 feet combination of appropriate types of boom for containment, protection and recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	2 times the EDRC
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-405 Grays Harbor planning standard. Those covered vessel and facility plan holders that transit or operate within Washington waters in a five nautical mile radius of a point at Lat. 46°54'52.25"N Long. 124°10'26.45"W (WGS 1984) outside the entrance to Grays Harbor must meet these standards.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
2	A safety assessment of the spill by work boat with trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		
3	Additional 2,000 feet of boom or 4 times the length of the largest vessel of boom to be used for containment, protection or recovery could have arrived on scene		
4	<u>At least an additional 200 feet of boom and temporary storage of at least 196 barrels with the ability to collect, contain, and separate collected oil from water could have arrived. The additional boom should be capable of encountering oil at advancing speeds of at least 2 knots in waves. This boom shall be of a type appropriate for the operating environment</u>		
6	Additional 6,000 feet of boom with at least 2,000 feet of open water boom and 3,000 feet of calm water - Current capable appropriate for containment, protection or recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,500 barrels within 24-hour period could have arrived. 25% must be able to work in shallow water environments - Depth of 10 feet or less	1 times the EDRC

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
12	Additional 20,000 feet of boom with at least 1,000 feet of calm water - Current capable, for containment, protection or recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived. At least 50% must be able to work in open water, 25% of the skimming capability must be able to work in shallow water environments - Depth of 10 feet or less	1.5 times the EDRC
24	Additional 20,000 feet of boom for boom containment, protection or recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	2 times the EDRC
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-410 Willapa planning standard. Those covered vessel and facility plan holders that transit or operate within Washington waters in a five nautical mile radius of a point at Lat. ((46°44'00"N Long. 124°11'00"W)) 46°41'31.2"N Long. 124°5'41.99"W (WGS 1984) outside the entrance to Willapa Bay must meet these standards.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
2	A safety assessment of the spill by work boat with trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		
3	Additional 2,000 feet of boom, or 4 times the length of the largest vessel whichever is less, to be used for containment, protection or recovery could have arrived		
6	Additional 10,000 feet of boom with at least 6,000 feet of boom being calm water - Current capable for containment, protection or recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,500 barrels within 24-hour period could have arrived. 10% must be able to work in shallow water environments - Depth of 10 feet or less	1 times the EDRC
12	Additional 20,000 feet of boom with at least 1,000 feet of calm water - Current capable, for containment, protection or recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived. At least 50% must be able to work in open water, 25% of the skimming capability must be able to work in shallow water environments - Depth of 10 feet or less	1.5 times the EDRC

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
24	Additional 20,000 feet of boom for boom containment, protection or recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	2 times the EDRC
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-415 Cathlamet staging area. Those covered vessel and facility plan holders that transit or operate on the Columbia River between statute mile 36 and statute mile 42 must meet the following standards. The resources to meet the two and three hour planning standards must be resident.

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
2	A safety assessment of the spill by work boat with trained crew and appropriate air monitoring, with 1,000 feet of boom could have arrived		
3	Additional 2,000 feet of boom, or 4 times the length of the largest vessel whichever is less, to be used for containment, protection or recovery could have arrived		
<u>4</u>	<u>At least an additional 200 feet of boom and temporary storage of at least 196 barrels with the ability to collect, contain, and separate collected oil from water could have arrived. The additional boom should be capable of encountering oil at advancing speeds of at least 2 knots in waves. This boom shall be of a type appropriate for the operating environment</u>		
6	Additional 7,000 feet of boom with at least 4,200 feet of boom being calm water - Current capable for containment, protection or recovery could have arrived	Capacity to recover the lesser of 3% of worst case spill volume or 12,000 barrels within 24-hour period could have arrived. 10% must be able to work in shallow water environments - <u>Depth of 10 feet or less</u>	1 times the EDRC

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage Volume
12	Additional 20,000 feet of boom with at least 5,000 feet of calm water - Current capable, for containment, protection or recovery could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived. At least 25% of the skimming capability must be able to work in shallow water environments - Depth of 10 feet or less and 25% must be open water capable	1.5 times the EDRC
24	Additional 20,000 feet of boom with at least 10,000 feet of boom being calm water - Current capable for boom containment, protection or recovery could have arrived	Capacity to recover the lesser of 14% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived. At least 25% must be open water capable	2 times the EDRC
48	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 25% of worst case spill volume or 60,000 barrels within 24-hour period could have arrived	More as necessary to not slow the response

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-450 Planning standards for the Washington coast. These standards apply to covered vessels that enter Washington waters at the Columbia River, Grays Harbor or the Strait of Juan de Fuca, and offshore facilities.

Plan holders shall be capable of sustaining a worst case spill response and shall develop an addendum specific to Washington's coast, including:

- (1) The capability, if applicable, for in situ burning, dispersant, and mechanical recovery;
- (2) Surveillance equipment (including fixed wing, helicopters and low visibility equipment) to provide for aerial assessment of spill within six hours of spill (~~awareness~~) notification;
- (3) Time frames and mechanisms to cascade in equipment and other resources for up to seventy-two hours;
- (4) Ten thousand feet of boom appropriate for shoreline protection, containment and/or ten thousand feet of open water boom for enhanced skimming, containment or other use to arrive within twelve hours; and
- (5) Twenty thousand feet of boom appropriate for containment, protection or recovery to arrive within twenty-four hours.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-520 Facility planning standards for shoreline cleanup. Each facility plan holder shall identify and ensure the availability of response resources necessary to perform shoreline cleanup operations. This standard will be evaluated using the criteria found in 33 C.F.R. Part 155 Appendix B and 33 C.F.R. 154 Appendix C.

NEW SECTION

WAC 173-182-522 Covered vessel planning standards for shoreline cleanup. (1) Each contingency plan shall include procedures for identifying shoreline types that could be impacted by an oil spill and procedures to determine appropriate response tactics for the potentially impacted shorelines during spills. The plan should describe contracted access to shoreline clean-up workers and shoreline clean-up equipment to ensure the following capability can plan to arrive within twenty-four hours of spill notification:

- (a) Plan holders must have contracted access to one hundred trained shoreline clean-up workers. The shoreline clean-up workers must have appropriate safety and Hazwoper training and will not be counted towards other planning standards. The training should enable clean-up workers to safely perform clean-up actions under the direction of the supervisors and the work assignment as developed by the unified command.

(b) Plan holders must have contracted access to trained shoreline clean-up supervisors. Training for supervisors must include safety, Hazwoper, and relevant ICS courses. For planning purposes a ratio of 1:10 supervisors to clean-up workers should be available under contract to the plan holder. The shoreline clean-up supervisors will not be counted towards other planning standards. Supervisors must understand the ICS process and be able to direct workers consistent with the work assignments as developed by unified command.

(c) Plan holders shall have access to adequate equipment for passive recovery for three miles of shoreline on three tide lines. The plan must identify the staging location(s) of the shoreline clean-up equipment.

(d) The plan holder must have access to a shoreline clean-up mobile storage cache that can support eighty to one hundred shoreline clean-up workers with personal protective equipment, hand tools, and other logistical support for three to five days.

(2) Plan holders must describe how data collection, communications, data transmission and data management will be conducted.

(3) The plan shall describe how the plan holder will obtain additional resources necessary to support fourteen additional days of shoreline cleanup. The description should include vendor names, contact information, resources, and approximate time frames for resources to arrive at a staging area.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-540 Planning standards for wildlife rescue and rehabilitation. The plan shall identify applicable federal, state and NWACP requirements for wildlife rescue and rehabilitation, and describe the equipment, personnel, resource and strategies for compliance with the requirements. These resources shall have the capability to arrive on scene within twenty-four hours of spill (~~awareness~~) notification.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-620 Alternative method of evaluating planning standards. (1) A plan holder may request that ecology review and approve a plan based on alternative planning standards. Such requests should be submitted with the plan and shall be subject to a thirty day public review period and comment period which includes, but is not limited to, interested local and tribal governments and other stakeholders.

(2) The proposal must include, at a minimum:

(a) A reference to which planning standard(s) in this chapter the proposal will be substituted for;

(b) A detailed description of the alternative proposal including equipment, personnel, response procedures, and maintenance systems that are being proposed; and

(c) An analysis of how the proposal offers equal or greater protection or prevention measures as compared to the requirement in this chapter.

(3) Ecology may approve the alternative compliance proposal if, based upon the documents submitted and other information available to the agency, it finds that:

(a) The alternative compliance proposal is complete and accurate; and

(b) The alternative compliance proposal provides an equivalent or higher level of protection in terms of spill preparedness and response when compared with the planning standards found in this chapter.

(4) Ecology may reconsider an approval at any time, in response to lessons learned from spills, drills, and significant plan changes which indicated that the requirements of this section for approval are not met.

NEW SECTION

WAC 173-182-621 Oil spill contingency plan best achievable protection five-year review cycle. (1) Ecology will review the planning standards at five-year intervals to ensure the maintenance of best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety.

(2) Ecology will adopt a five-year review cycle to ensure that the planning standards are updated to include proven new response technologies and response processes. In addition plan holders and other interested parties will be provided an opportunity to present information and proposals regarding spill prevention credits to support an alternative worst case discharge volume for the contingency plan. The review cycle is designed to evaluate BAP by assessing contributing elements including:

(a) Best achievable technology;

(b) Staffing levels;

(c) Training procedures; and

(d) Operational methods.

(3) The review cycle will be used to evaluate a variety of spill operations, tools, and technologies including, but not limited to, the following:

(a) Advancing systems for the removal of oil from the surface of the water;

(b) Improving the performance of existing skimmer/boom and storage systems technology;

(c) Improving the performance of in situ burn and dispersants technology;

(d) Broadening the environmental conditions under which oil spill cleanup can take place;

(e) Ensuring that the technology is deployable and effective in a real world spill environment; and

(f) Considering tools or technology that are designed, produced, and manufactured in an energy-efficient process and products are reuseable, recyclable, and reduce waste.

(4) Ecology may use the following processes to inform and update the use of BAP in the planning standards by:

(a) Convening an advisory committee(s) to assist ecology during the five-year review cycle and promote BAP.

(b) Evaluating the recovery systems identified in the technical manual during the five-year cycle to determine best achievable technology, and inform the development of future planning standards.

(c) Sponsoring a technology conference during the five-year cycle in cooperation with persons, organizations, and groups with interests and expertise in relevant technologies; or

(d) Conducting or reviewing studies, inquiries, surveys, or analyses appropriate to the consideration of new technologies, plan evaluation methods including EDRC, or best operational practices.

(5) Ecology may prepare reports following either of the actions described in subsection (4) of this section. These reports will identify the new technologies, processes, techniques or operational practices that ecology considers to represent BAP.

(6) Ecology will provide an opportunity for a thirty-day public review and comment period on the draft report.

(7) Ecology will use the developed reports to update the contingency planning rule as necessary every five years.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-630 Process for plan approval. (1)

Upon receipt of a plan, ecology shall evaluate whether the plan is complete, and if not, the plan holder shall be notified of any deficiencies within five business days. The public review and comment period does not begin until a complete plan is received.

(2) Once a plan ~~((is))~~ has been determined to be complete, ecology shall notify interested parties, including local and tribal governments and make the plan((s)) available for public review~~((Comments will be accepted during the first thirty calendar days of the review period.~~

~~((3)))~~ and comment.

Ecology will accept comments on the plan no later than thirty days after the plan has been made publicly available. No later than sixty-five days from the date of public notice of availability, ecology will make a written determination that the plan is disapproved, approved, or conditionally approved. The written determination will be provided in the form of an order and subject to appeal as specified in chapter 43.21B RCW.

(a) If the plan is approved, the plan holder receives a certificate ~~((describing the terms))~~ of plan approval~~((including))~~ and plan expiration dates. Approved plans shall be valid for five years.

~~((a))~~ (b) If a plan is conditionally approved, ecology may ~~((approve a plan conditionally and))~~ require a plan holder to operate under specific restrictions until unacceptable components of the plan are revised, resubmitted and approved. ~~((Such notice will include specific reference))~~ In the conditional approval ecology will describe:

(i) Each specific restriction and the duration for which they apply;

(ii) Each required item to bring the plan into compliance; and

(iii) The schedule for plan holders to submit required updates, including a reference to the regulatory standard in question.

~~((i) Precautionary measures))~~ (iv) Restrictions may include, but are not limited to, additional information for the

plan, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. ~~((Precautionary measures))~~ Restrictions may also include additional requirements to ensure availability of response equipment.

~~((ii))~~ (v) Conditional approval expires no later than eighteen months from date of issue before the plan holder must request an extension which is subject to public review.

(vi) Ecology shall revoke its conditional approval prior to the expiration date of a plan holder((s)) who fails to meet the terms of the conditional ~~((requirements or provide required changes in the time allowed will forfeit conditional approval status))~~ approval. The revocation will be in the form of an appealable order.

~~((b))~~ (c) If plan approval is ~~((denied))~~ disapproved, the plan holder shall receive an explanation of the factors ~~((for denial and a list of actions necessary to gain approval))~~.

(3) The owner or operator or plan holder shall not engage in oil storage, transport, transfer, or other operations without an approved or conditionally approved plan. Umbrella plan holders shall not enroll any vessels in a plan that has not been approved or conditionally approved, by ecology.

(4) Ecology may review a plan following an actual spill or drill of a plan and may require revisions as appropriate.

(5) Public notice will be given of any plan approval, conditional approval, or disapproval of a plan.

NEW SECTION

WAC 173-182-640 Process for public notice and opportunity for public review and comment period. (1)

The purpose of this section is to specify the procedures for notifying the public which includes interested local and tribal governments about contingency plan status and decisions in order to provide opportunities for the public to review and comment.

(2) In order to receive notification of the public review and comment period, interested public, local, and tribal governments must sign up on a listserv. Ecology's web site will also be used to post notice of public review and comment periods.

(3) Public comment periods must extend at least thirty days. Public notice, review, and comment periods are required in the following circumstances:

(a) Plan submittals for facilities or vessels that have never submitted a plan in Washington;

(b) Plan updates required by WAC 173-182-130;

(c) The submittal of plans for five-year review as required by WAC 173-182-120;

(d) Requests for an alternative planning standard in accordance with WAC 173-182-620;

(e) Plan holder requests for drill requirement waivers in accordance with WAC 173-182-740; and

(f) PRC applications submitted under WAC 173-182-810.

(4) Public notice, review, and comment period are not required in the following circumstances:

(a) Routine updates to names, phone numbers, formatting, or forms that do not change the approved content of the plan;

- (b) Plan updates to resubmit the binding agreement based on changes to the binding agreement signer; and
- (c) Annual plan reviews that result in a letter to ecology confirming that the existing plan is still accurate.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-700 Drill participation, scheduling and evaluation. (1) Plan holders and primary response contractors (PRCs) shall participate in a drill and equipment verification program for the purpose of ensuring that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of damage from a variety of spill sizes. In Washington, a modified triennial cycle for drills, as found in the National Preparedness for Response Drill Program (PREP), is relied on to test each component of the plan.

(2) Plan holders and PRCs shall ensure ecology (~~shall be~~) is provided an opportunity to help design and evaluate all

tabletop and deployment drills for which the plan holder desires drill credit. To ensure this, plan holders shall schedule drills on the NWACP area exercise calendar. Scheduling requirements are noted in the table below.

(3) Ecology shall mail a written drill evaluation report for drills to the plan holder following each deployment and tabletop drill. Credit will be granted for drill objectives that are successfully met.

(4) Objectives that are not successfully met shall be tested again and must be successfully demonstrated within the triennial cycle, except that significant failures will be retested within thirty days.

(5) Where plan deficiencies have been identified in the written evaluation (~~(may require)~~), plan holders may be required to make specific amendments to the plan or conduct additional trainings to address the deficiencies.

(6) A plan holder may request an informal review with ecology of the ecology drill evaluation within thirty days of receipt of the report.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-710 Type and frequency of drills. The following drills shall be conducted within each triennial cycle.

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
Tabletop drills	3 - <u>One</u> in each year of the cycle	One of the three shall involve a worst case discharge scenario. The worst case discharge scenario drill shall be conducted once every three years.	Must be scheduled at least 60 days in advance, except the worst case discharge scenario at least 90 days in advance.
Deployment drills	6 - <u>Done</u> two per year	These drills shall include, GRP deployments, testing of each type of equipment to demonstrating compliance with the planning standards.	Scheduled at least 30 days in advance. <u>Except the tank vessel multiplan holder deployment drill which must be scheduled at least 60 days in advance.</u>
Ecology initiated unannounced drills	As necessary	This drill may involve testing any component of the plan, including notification procedures, deployment of personnel, boom, recovery and storage equipment.	No notice.
<u>ERTV Deployment Drill for covered vessels transiting the Strait of Juan de Fuca</u>	<u>1 - One in each three year cycle, this is an additional deployment drill unless it is incorporated into a large multiobjective deployment drill.</u>	<u>This drill may involve notifications and tug call out, communications safety, tug demonstration of making up to, stopping, holding, and towing a drifting or disabled vessel and holding position within one hundred feet of another vessel.</u>	<u>Scheduled at least 30 days in advance.</u>
<u>Wildlife Deployment Drill</u>	<u>1 - One in each three year cycle. This is an additional drill unless it is incorporated into a large multiobjective deployment drill.</u>	<u>This drill will be a deployment of wildlife equipment and wildlife handlers.</u>	<u>Scheduled at least 30 days in advance.</u>

Type of Drill	Frequency Within the Triennial Cycle	Special Instructions	Scheduling Instructions
<u>Tank vessel multiplan holder deployment drill</u>	<u>1 - One in each three year cycle.</u>	<u>This drill may involve dedicated and nondedicated equipment, vessels of opportunity, multiple simultaneous tactics, and the verification of operational readiness over multiple operational periods.</u>	<u>Scheduled at least 60 days in advance.</u>

(1) Tabletop drills:

(a) Tabletop drills are intended to demonstrate a plan holder's capability to manage a spill using the incident command system (ICS). Role playing shall be required in this drill. During all required tabletop drills plan holders must provide a master list of equipment and personnel identified to fill both command post and field operations roles. The master resources list must include:

(b) Western regional response list identification numbers for all response resources; and

(c) Personnel names, affiliation, home base and command post or field role.

(2) Once during each three year cycle, the plan holder shall ensure that key members of the regional/national "away" team as identified in the plan shall be mobilized in state for a drill ~~((except that))~~. However, at ecology's discretion, ~~((away))~~ team members that are out-of-state may be evaluated in out-of-state tabletop drills if ecology has sufficient notice, an opportunity to participate in the drill planning process, and provided that the out-of-state drills are of similar scope and scale to what would have occurred in state. In this case, key away team members shall be mobilized in this state at least once every ~~((five))~~ six years.

~~((2))~~ (3) Umbrella plan holders and ecology shall together design a systematic approach to, over time, involve all spill management teams identified in WAC 173-182-230 (6)(a) in tabletop and deployment drills as a best practice to demonstrate the preparedness of enrolled vessel members. These drills will be scheduled by the plan holder or unannounced to be conducted by ecology, at the discretion of ecology. These drills may test any plan components but at a minimum will include notification to the enrolled vessel qualified individual, coordination of supplemental resources under WAC 173-182-232 and the transition from the umbrella plan spill management team to the enrolled vessel company spill management team.

(4) Equipment deployment drills: Plan holders shall use deployment drills to demonstrate the actions they would take in a spill, including: Notifications, safety actions, environmental assessment, and response equipment deployment.

(a) During the triennial cycle, deployment drills shall include a combination of plan holder owned ~~((and))~~ assets, contracted PRC assets, nondedicated assets, and vessels of opportunity.

(b) Plan holders should ensure that each type of dedicated equipment listed in the plan and personnel responsible for operating the equipment are tested during each triennial cycle. Plan holders must design drills that will demonstrate the ability to meet the planning standards, including recovery systems and system compatibility and the suitability of the system for the operating environment. Drills shall be con-

ducted in all operating environments that the plan holder could impact from spills.

(c) At least twice during a triennial cycle, plan holders shall deploy a geographic response plan (GRP) strategy identified within the plan. If no GRPs exist for the operating area, plan holders will consult with ecology to determine alternative sensitive areas to protect.

(d) Plan holders may request credit for the prebooming of an oil transfer provided the transfer is scheduled as a deployment on the drill calendar. Such credit may only be requested once per triennial cycle.

~~((3))~~ (5) Plan holders may receive credit for ~~((GRP))~~ deployment drills conducted by PRCs if:

(a) The PRC is listed in the plan; and

(b) The plan holder operates in the area, schedules on the drill calendar, and participates in or observes the drill.

~~((4))~~ (6) Additional large-scale multiple tank vessel plan holder equipment deployment drill requirement. Once every three years all tank vessel plan holders, including vessel umbrella plan holders that enroll tank vessels, must participate in a multiple plan holder deployment exercise. At least one plan holder shall be the drill planning lead, participate in all the planning meetings and observe the drill. This deployment may include the following objectives:

(a) Demonstration of dedicated and nondedicated equipment and trained contracted personnel;

(b) Demonstration of contracted vessel of opportunity response systems and crew performing operations appropriate to the vessel capabilities;

(c) Demonstration of multiple simultaneous tactics including:

(i) On-water recovery task forces made up of complete systems which demonstrate storage, recovery, and enhanced skimming;

(ii) Protection task forces which deploy multiple GRPs;

(iii) Vessel and personnel decontamination and disposal;

(iv) Deployment of contracted aerial assessment assets and aerial observers to direct skimming operations; and

(v) Personnel and equipment identified for night operations.

(d) Verification of the operational readiness during both the first six hours of a spill and over multiple operational periods.

(7) Additional deployment requirement for vessel plan holders with contracted access to the ERTV. Once every three years plan holders with contracted access to the ERTV must cosponsor a drill that includes deployment of the ERTV, unless ERTV drill credit has already been received under WAC 173-182-242 (1)(e). This drill must be scheduled on the area exercise calendar. The drill shall include at a minimum:

(a) Notifications and tug call out:

(b) Safety and environmental assessment:

(c) Demonstration of making up to, stopping, holding, and towing a drifting or disabled vessel:

(d) Demonstration of the capability to hold position within one hundred feet of another vessel; and

(e) Communications.

(8) Additional deployment requirement for all plan holders. Once every three years plan holders must deploy regional mobile wildlife rehabilitation equipment and personnel necessary to set up the wildlife rehabilitation system found in the plan. This is an additional deployment drill unless it is incorporated into a large multiobjective deployment drill.

(9) For all plan holders, ecology ((initiated)) may initiate scheduled inspections and unannounced deployment and tabletop drills.

(a) In addition to the drills listed above, ecology will implement a systematic scheduled inspection and unannounced drill program to survey, assess, verify, inspect or deploy response equipment listed in the plan. This program will be conducted in a way so that no less than fifty percent of the resources will be confirmed during the first triennial cycle, and the remaining fifty percent during the subsequent triennial cycle.

(b) Unannounced drills may be called when specific problems are noted with individual plan holders, or randomly, to strategically ensure that all operating environments, personnel and equipment readiness have been adequately tested.

(c) Unannounced notification drills are designed to test the ability to follow the notification and call-out process in the plan.

(d) Immediately prior to the start of an unannounced deployment or tabletop drill, plan holders will be notified in writing of the drill objectives, expectations and scenario.

(e) Plan holders may request to be excused if conducting the drill poses an unreasonable safety or environmental risk, or significant economic hardship. If the plan holder is excused, ecology will conduct an unannounced drill at a future time.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-720 Evaluation criteria. The ((PREP)) ecology drill evaluation process is based on the National Preparedness for Response Exercise Program (NPREP) guidance document. The NPREP guidance document lists fifteen core components that shall be demonstrated by the plan holder during the triennial cycle. Ecology adopts the fifteen core components as the criteria used to evaluate plan holder tabletop and deployment drills. The core components are as follows:

(1) Notifications: Test the notifications procedures identified in the plan.

(2) Staff mobilization: Demonstrate the ability to assemble the spill response organization identified in the plan.

(3) Ability to operate within the response management system described in the plan. This includes demonstration of the ICS staffing and process identified in the plan.

(4) Source control: Demonstrate the ability of the spill response organization to control and stop the discharge at the source.

(5) Assessment: Demonstrate the ability of the spill response organization to provide an initial assessment of the discharge and provide continuing assessments of the effectiveness of the tactical operations.

(6) Containment: Demonstrate the ability of the spill response organization to contain the discharge at the source or in various locations for recovery operations.

(7) Recovery: Demonstrate the ability of the spill response organization to recover, mitigate, and remove the discharged product. Includes mitigation and removal activities, e.g., dispersant use, in situ burn use, and bioremediation use.

(8) Protection: Demonstrate the ability of the spill response organization to protect the environmentally and economically sensitive areas identified in the NWACP and the plan.

(9) Disposal: Demonstrate the ability of the spill response organization to dispose of the recovered material and contaminated debris in compliance with guidance found in the NWACP.

(10) Communications: Demonstrate the ability to establish an effective communications system throughout the scope of the plan for the spill response organization.

(11) Transportation: Demonstrate the ability to provide effective multimode. Transportation both for execution of the discharge and support functions.

(12) Personnel support: Demonstrate the ability to provide the necessary logistical support of all personnel associated with the response.

(13) Equipment maintenance and support: Demonstrate the ability to maintain and support all equipment associated with the response.

(14) Procurement: Demonstrate the ability to establish an effective procurement system.

(15) Documentation: Demonstrate the ability of the plan holder's spill management organization to document all operational and support aspects of the response and provide detailed records of decisions and actions taken.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-740 Drill requirement waivers. (1) Plan holders may request a waiver for a deployment or tabletop drill requirements.

(2) The request shall be in writing and shall describe why a waiver should be considered and how the plan holder is meeting the purpose and intent of the drill program with the waiver.

(3) Plan holder's requests for a drill waiver will be made available for public review and comment, including interested local and tribal governments and other stakeholders, for a period of thirty days.

(4) Ecology will evaluate the request and respond in writing within sixty calendar days of receipt of the letter.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-800 Primary response contractor (PRC) application. (1) To become a state-approved PRC, a response contractor must:

(a) Submit an application as set forth in subsection (2) of this section;

(b) Have a process to provide twenty-four hour/day contact for spill response;

(c) Commit to begin mobilization efforts immediately upon notification but no later than one hour from notification of a spill;

(d) Maintain equipment in accordance with manufacturer specifications; ~~((and))~~

(e) Identify and train staff and supervisors expected to be deployed on oil spill response tactics or used to meet plan holder planning standards;

(f) Assist plan holders in meeting the requirements for plans and drills in Washington; and

(g) List response equipment on the western regional response list currently located at www.wrrl.us, or provide an equivalent electronic equipment list and commit to maintaining the equipment list in whatever format is provided.

(2) To apply, a contractor should complete, sign and submit the application form number ECY 070-216.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-810 Content submittal and review of contractor applications. ~~((+))~~ The PRC application must contain the following information as applicable to the capabilities of the PRC:

(1) A list of primary response contractor personnel indicating whether they are full-time, part-time, or subcontracted including their homebase or office location, and the spill management team roles or tactical roles they may fill in a response.

(a) If personnel are available to the primary response contractor via subcontract a summary of the contract terms for personnel resources should be included in the application. The contract shall be made available to ecology upon request.

(b) A list of all staff training, including training of subcontractors if applicable, and a description of the frequency of essential core training response staff receive.

(c) The training program must be specific to the tactics the PRC intends to perform. Include in the application details about the following training areas as applicable:

(i) Safety training;

(ii) Training on-site safety assessment;

(iii) Assessment of environmental conditions;

(iv) Determination that equipment is appropriate for the conditions;

(v) Air monitoring equipment and documentation; and

(vi) Development of a hazard worksheet.

(d) Additional training as necessary for personnel that may be relied upon to perform these tasks:

(i) Conducting site safety briefings;

(ii) Use and deployment of limited visibility tracking devices;

(iii) Utilization and coordination of communications equipment;

(iv) Transfer of a product from skimmer to on-water and shoreside storage;

(v) Containment of a land spill from entering water by channeling, diverting, or berming;

(vi) Fast water river response strategies;

(vii) High current marine response strategies;

(viii) GRP or protection strategy familiarization and deployment;

(ix) Anchoring and setting boom;

(x) Familiarization and deployment of PRC owned oiled-wildlife rehabilitation equipment;

(xi) On water recovery including enhanced skimming;

(xii) Directing field resources;

(xiii) Incident command system training for spill management team roles.

(2) A list of all communication assets by type and location. The frequencies and geographical ranges must be included. This list must be maintained and if not included in the application made available to ecology upon request.

(3) A list of response equipment must be submitted electronically to ecology or via western response resource list, at www.wrrl.us, containing the following information:

(a) All equipment must be given a unique company identifier, and this identifier must be submitted on the list provided to ecology.

(b) Equipment must include the minimum number of personnel required to operate successfully for one shift.

(c) The location the equipment is stored using latitude/longitude in the WGS 1984 coordinate system. The coordinates must be in decimal degree format.

(d) The type of equipment, including manufacturer's name, manufacture date, model and specifications.

(e) For boom, list the length, manufacturer's name, model, size, and date of manufacture.

(f) For oil recovery devices state the manufacturer's name, model, EDRC or approved alternative, manufacture date, and operating environment.

(g) For temporary storage list the maximum capacity in barrels.

(h) For workboats list the vessel name and/or identifier, length, and vessel type, manufacturer, engine type(s) and horsepower.

(4) A detailed description of the vessel of opportunity program.

(5) A detailed description of other response technologies systems available such as in situ burn, bioremediants, and other chemical agents.

(6) A detailed description of any wildlife rescue and rehabilitation resources. Include a list of contracts or agreements with any trained wildlife rescue and rehabilitation personnel.

(7) A detailed description of equipment and personnel that would be used for shoreline cleanup. This should include a description of training resources for additional clean-up personnel.

(8) A list of agreements for access to shoreside storage. Include the owner, location, and general estimate of volume.

(9) A list of agreements for fixed wing and rotary aircraft used to support spill clean-up operations.

(10) A detailed description of remote sensing equipment and aerial surveillance resources and personnel that the primary response contractor has under contract or letter of intent that could be used to detect and track the extent and movement of oil or direct on-water recovery operations.

(11) Once an application is received, ecology will determine whether it is complete. If not, the response contractor shall be notified of deficiencies in writing and given a time period for submitting the required information.

~~((2))~~ (12) Equipment and personnel readiness will be verified once the application is approved. Ecology may inspect equipment, training records, maintenance records, drill records, and may request a test of the call-out procedures, and require operation of each type of equipment listed in the application. These inspections may be conducted at any/all equipment locations. Any resources not on-site at the time of an inspection shall be accounted for by company records.

~~((3))~~ (13) If the application is approved and the verification is satisfactory, the contractor shall receive a letter of approval describing the terms of approval, including expiration dates and EDRC of the recovery equipment. PRC approvals will be reviewed by ecology every three years. Applications shall be resubmitted forty-five calendar days in advance of the expiration date.

~~((4))~~ (14) Once the PRC application is approved, the PRC must certify in writing on a quarterly basis that the list of equipment the contractor maintains in their application or on the WRRL is accurate. Any contractor that doesn't maintain their list on the WRRL, must resubmit their electronic list on a quarterly basis.

(15) Notification by facsimile or e-mail will be considered written notice.

(16) Failure to certify the accuracy of the equipment list on a quarterly basis may result in the loss of PRC approval.

(17) If the application is not approved, the contractor shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval.

~~((5))~~ (18) Approval of a response contractor by ecology does not constitute an express assurance regarding the adequacy of the contractor nor constitute a defense to liability imposed under state law.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 00-03, filed 9/25/06, effective 10/26/06)

WAC 173-182-820 Significant changes require notification. (1) The PRC is responsible to provide written notification to ecology and all plan holders to whom they are obligated, within twenty-four hours, of any significant change in the information reported in the approved application. The notice shall include the identification of back up resources sufficient to maintain the PRC readiness level, and

the estimated date that the original equipment shall be back in full service.

(2) Changes which are considered significant include:

(a) Loss of equipment that (~~affected the planning standard spreadsheet of any plan holder covered by the PRC, personnel identified in ICS positions by plan holders, changes in equipment ownership, or a greater than ten percent decrease in available spill response equipment.~~ Failure to report changes could result in the loss of PRC approval. Notification by facsimile or e-mail will be considered written notice.

(2)) results in being out of compliance with any planning standard of any plan holder covered by the PRC;

(b) Transfers of equipment to support spill response for out-of-region spills;

(c) If greater than ten percent of available boom, storage, recovery, dispersants, in situ burn or shoreline clean-up equipment is moved out of the home base, except for a drill or training, as depicted on the WRRL;

(d) Permanent loss of primary response contractor personnel identified to fill ICS positions for plan holders;

(e) Changes in equipment ownership if used to satisfy a plan holder planning standard; or

(f) Modification or discontinuing of any mutual aid, letter of intent, or contract agreement.

(3) Notification by facsimile or e-mail will be considered written notice.

(4) Failure to report changes could result in the loss of PRC approval.

(5) If ecology determines that PRC approval conditions found in WAC 173-182-800 are no longer met, approval may be revoked (~~or conditionally modified~~). The PRC will receive a written notice of the loss of approval (~~or conditional modifications~~) and a time period to either appeal or correct the deficiency.

~~((3))~~ (6) Ecology will immediately notify plan holders of changes in the approval status of PRCs or significant changes in PRC capability.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-182-360

General planning standards for covered vessel transit locations for all of Puget Sound.

WSR 13-01-055

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 11-05—Filed December 14, 2012, 3:17 p.m., effective January 14, 2013]

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

Purpose: This rule making updates the preassessment screening and oil spill compensation regulations (old title), chapter 173-183 WAC. The update incorporates the new

requirements of the law passed in chapter 122, Laws of 2011 (E2SHB 1186). The rule update will do three things.

First, it changes the multipliers in all of the calculations for damages to allow the compensation values to reach \$3 to \$300 per gallon spilled, for any oil spill of one thousand gallons or more. This increase helps to insure that citizens are adequately compensated for injuries to natural resources that happen from oil spills. This requirement is specifically stated in the law.

Secondly, this update moves guidance into rule for the method on how to reduce compensation amounts if a spiller acts quickly to remove oil from the water. The guidance has been in effect since 1996. The new law specifically addresses persistent oil and sets a time of forty-eight hours to get credit for recovered oil. The current guidance gives twenty-four hours for all oil types. The rule language addresses these differences, creates five new definitions, and moves all twenty-four and forty-eight hour recovery credit procedures into rule. The previous rule language on recovery credit is deleted.

Finally, this update changes the name of the rule to "oil spill natural resource damage assessment."

The following is a summary of changes ecology adopted:

- Update the monetary amount of compensation that can be calculated for spills of one thousand gallons or greater in volume from \$1 to \$100 to a new range of \$3 to \$300 per gallon spilled.
- Amend the mathematical formula multipliers contained in WAC 173-183-830, 173-183-840, 173-183-850, and 173-183-860.
- Define persistent oil, nonpersistent oil, nonpetroleum oil, recovered oil, and shoreline.
- Codify the method to provide credit back to a spiller for their early on-water recovery actions replacing the existing language in WAC 173-183-870.

Citation of Existing Rules Affected by this Order:
Amending chapter 173-183 WAC.

Statutory Authority for Adoption: RCW 90.48.366, 90.56.050, 90.48.035.

Adopted under notice filed as WSR 12-17-074 on August 14, 2012.

A final cost-benefit analysis is available by contacting the Outreach and Education Specialist, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7455, fax (360) 407-7288, e-mail mevo461@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 8, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 0.

Date Adopted: December 14, 2012.

Ted Sturdevant
Director

Chapter 173-183 WAC

~~((PREASSESSMENT SCREENING AND OIL SPILL COMPENSATION SCHEDULE REGULATIONS)) OIL SPILL NATURAL RESOURCE DAMAGE ASSESSMENT~~

AMENDATORY SECTION (Amending Order 07-14, filed 11/7/07, effective 12/8/07)

WAC 173-183-100 Definitions. (1) "Columbia River estuary environment" means the habitat and all other public resources associated with or dependent on the estuarine waters of the Columbia River.

(2) "Compensation schedule" means the set of procedures enumerated in WAC 173-183-300 through 173-183-870 to determine the public resource damages resulting from an oil spill for cases in which damages are not quantifiable at a reasonable cost.

(3) "Damages" means the amount of monetary compensation necessary to:

(a) Restore any injured public resource to its condition before sustaining injury as a result of an oil discharge in violation of chapter 90.48 or 90.56 RCW, to the extent technically feasible, including any loss in value incurred during the period between injury and restoration in cases where damages are quantifiable at a reasonable cost; or

(b) Adequately compensate for the loss or diminution in value as determined through application of the compensation schedule provided in WAC 173-183-300 through 173-183-870 in cases where damages are not quantifiable at a reasonable cost.

(4) "Department" means the department of ecology.

(5) "Director" means the director of the department of ecology, or his or her designee.

(6) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(7) "Estuarine environment" means the habitat and all other public resources associated with or dependent on estuarine waters of the state.

(8) "Estuarine waters" or "estuarine waters of the state" means the waters within state jurisdiction that are semienclosed by land but have open, partly obstructed, or sporadic access to the ocean, and in which seawater is at least occasionally diluted by freshwater runoff from land. Estuarine waters of the state include adjacent tidal flats and beaches up to the limit of tidal inundation or wave splash. For purposes of this chapter, estuarine waters of the state include those designated on the map attached as Appendix 1 to this chapter, and the portion of the Columbia River estuary within state jurisdiction upstream to river mile 46 or the line drawn perpendicularly across the river which touches the upstream end of Puget Island.

(9) "Freshwater stream, river, and lake environment" means the habitat and all other public resources associated with or dependent on the streams, rivers, and lakes under state jurisdiction.

(10) "Freshwater wetland" or "freshwater wetlands" means lands transitional between terrestrial and freshwater aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and lands having one or more of the following attributes at least periodically: The land supports predominantly hydrophytes; the substrate is predominately undrained hydric soil; and the substrate is nonsoil and saturated with water or covered by shallow water at some time during the growing season each year.

(11) "Freshwater wetland environment" means the habitat and all other public resources associated with or dependent on the freshwater wetlands of the state.

(12) "Freshwaters" or "freshwaters of the state" means all waters of the state except those classified as marine and estuarine waters of the state as defined in this chapter, including lakes, rivers, streams, ponds, other surface waters and wetlands.

(13) "Habitat" means the substrate and complement of associated biota not otherwise included in the vulnerability rankings in the applicable compensation schedule(s) that is part of this chapter.

(14) "Immediate removal" or "immediately removes" means removal of the spilled oil, or portions thereof, from the receiving environment by the potentially liable party within six hours of spill initiation.

(15) "Initial department responder" means the department of ecology spill responder who first arrives at the scene of the spill.

(16) "Injury" or "injuries" means an adverse change, either long- or short-term, to a public resource resulting either directly or indirectly from exposure to a discharge of oil in violation of chapter 90.48 or 90.56 RCW.

(17) "Loss in services" means a temporary or permanent reduction in the ability of the resource to provide its use or benefit to the public or to other resources.

(18) "Loss in value or lost value" of a damaged resource means the amount equal to the sum of consumptive, nonconsumptive, and indirect use values, as well as lost taxation, leasing, and licensing revenues during the period between injury and restoration; indirect use values may include existence, bequest, option, and aesthetic values.

(19) "Marine and estuarine habitats" mean the habitats found in marine and estuarine waters of the state as defined in this chapter.

(20) "Marine birds" means all seabirds, shorebirds, waterfowl, raptors and other avifauna that are dependent on marine and estuarine environments of the state for some portion of their life requirements including feeding, breeding, and habitat.

(21) "Marine environment" means the habitat and all other public resources associated with or dependent on marine waters of the state.

(22) "Marine fish," in context of the compensation schedule, means the species listed in Appendix 2.

(23) "Marine mammals" means the cetaceans, pinnipeds, sea otters, and river otters associated with marine and estuarine waters of the state.

(24) "Marine waters" or "marine waters of the state" means all coastal waters not appreciably diluted by freshwater, including open coastal areas, straits, and euhaline inland waters extending from the seaward limit of state jurisdiction to:

(a) The landward limit of tidal inundation or wave splash; or

(b) The seaward limit of estuarine waters of the state.

(25) "Nonpersistent or group 1 oil" means:

(a) A petroleum-based oil, such as gasoline, diesel or jet fuel, which evaporates relatively quickly. Such oil, at the time of shipment, consists of hydrocarbon fractions of which:

(i) At least fifty percent, by volume, distills at a temperature of 340°C (645°F); and

(ii) At least ninety-five percent, by volume, distills at a temperature of 370°C (700°F); or

(b) A nonpetroleum oil with a specific gravity less than 0.8.

(c) For the purposes of WAC 173-183-870, any spilled oil that consists of a combination of spilled nonpersistent and spilled persistent oil, will be considered a nonpersistent oil.

(26) "Nonpetroleum oil" means oil of any kind that is not petroleum-based, including but not limited to: Biological oils such as fats and greases of animals and vegetable oils, including oils from seeds, nuts, fruits, and kernels.

(27) "Not quantifiable at a reasonable cost" means any diminution in value of a public resource that cannot be measured with sufficient precision or accuracy by currently available and accepted procedures within a reasonable time frame.

~~((26))~~ (28) "Oil" or "oils" means oil of any kind that is liquid at atmospheric temperature and pressure and any fractionation thereof, including, but not limited to, crude oil, petroleum gasoline, fuel oil, diesel oil, oil sludge, oil refuse, biological oils and blends, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by P.L. 99-499.

~~((27))~~ (29) "On scene coordinator" (OSC) means the department official who supervises the spill response team and compiles the initial report concerning the facts and circumstances of the spill for the department.

~~((28))~~ (30) "Persistent oil" means:

(a) Petroleum-based oil that does not meet the distillation criteria for a nonpersistent oil. Persistent oils are further classified based on both specific and American Petroleum Institute (API) observed gravities corrected to 60°F, as follows:

(i) Group 2 - Specific gravity greater than or equal to 0.8000 and less than 0.8500. API gravity less than or equal to 45.00 and greater than 35.0;

(ii) Group 3 - Specific gravity greater than or equal to 0.8500, and less than 0.9490. API gravity less than or equal to 35.0 and greater than 17.5;

(iii) Group 4 - Specific gravity greater than or equal to 0.9490 and up to and including 1.0. API gravity less than or equal to 17.5 and greater than 10.00; and

(iv) Group 5 - Specific gravity greater than 1.0000. API gravity equal to or less than 10.0.

(b) A nonpetroleum oil with a specific gravity of 0.8 or greater. These oils are further classified based on specific gravity as follows:

(i) Group 2 - Specific gravity equal to or greater than 0.8 and less than 0.85;

(ii) Group 3 - Specific gravity equal to or greater than 0.85 and less than 0.95;

(iii) Group 4 - Specific gravity equal to or greater than 0.95 and less than 1.0; or

(iv) Group 5 - Specific gravity equal to or greater than 1.0.

(31) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

~~((29))~~ (32) "Potentially liable party" means the person or persons who may be liable for damages resulting from an oil spill.

~~((30))~~ (33) "Preassessment screening" means the investigation and determination of the facts and circumstances surrounding an oil spill which are used to determine whether a damage assessment investigation should be conducted, or alternatively, whether the compensation schedule will be used to assess damages.

~~((31))~~ (34) "Public resources" or "publicly owned resources" means fish, animals, vegetation, land, waters of the state, and other resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state.

~~((32))~~ (35) "Reasonable cost" for a damage assessment means a cost that is anticipated to be less than the amount of damages that may have occurred or may occur.

~~((33))~~ (36) "Receiving environment" means waters of the state exposed to the spill and all public resources associated with or dependent on the exposed waters.

~~((34))~~ (37) "Recovered oil" is oil removed from the water using hand or mechanical techniques or oleophilic sorbent materials. It does not include spilled oil remobilized as a clean-up effort after shoreline contact and it does not include oil removed from the water's surface using dispersing or solidifying agents, or oil removed by burning.

(38) "Resource damage assessment committee" or "RDA committee" means the preassessment screening committee established under RCW 90.48.368 and charged with determining whether to conduct detailed damage assessment studies or to apply the compensation schedule for oil spills into waters of the state, and overseeing reconnaissance and damage assessment activities.

~~((35))~~ (39) "Restoration or enhancement projects or studies" means an activity that is intended to restore, replenish, restock, or replace public resources, or to further investigate the long-term effect of resource injuries as determined by the RDA committee for the benefit of the public.

~~((36))~~ (40) "Salmon," in context of the compensation schedule, means the species listed in Appendix 3.

~~((37))~~ (41) "Scientific advisory board" means the advisory group established by the department to assist in develop-

ment of the compensation schedule as required by RCW 90.48.366.

~~((38))~~ (42) "Season" or "seasons" means winter, spring, summer, and/or fall, where winter occurs during the months December through February, spring occurs during the months March through May, summer occurs during the months June through August, and fall occurs during the months September through November.

~~((39))~~ (43) "Shellfish," in context of the compensation schedule, means the species listed in Appendix 4, but does not include privately grown shellfish on public lands.

~~((40))~~ (44) "Shoreline" for the purposes of WAC 173-183-870 only, means any interface between the surface of the waters of the state, including wetlands, and sediment or soil.

(45) "Spill" means an unauthorized discharge of oil into waters of the state.

~~((41))~~ (46) "State" means state of Washington.

~~((42))~~ (47) "State trustee agencies" means the state agencies with responsibility for protecting and/or managing public resources.

~~((43))~~ (48) "Subregion" or "subregions" means the areas into which state marine and estuarine waters have been divided for purposes of the compensation schedule as designated on the maps attached as Appendix 1.

~~((44))~~ (49) "Technical feasibility" or "technically feasible" means that given available technology, a restoration or enhancement project can be successfully completed at a cost that is not disproportionate to the value of the public resource before the injury.

~~((45))~~ (50) "Trust resources" means the public resource(s) under a particular state agency's jurisdiction for protection and/or management.

~~((46))~~ (51) "Unquantifiable damage" means any diminution in value of a public resource that cannot be measured with sufficient precision or accuracy by currently available and accepted procedures within a reasonable period of time.

~~((47))~~ (52) "Waters of the state" or "state waters" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

~~((48))~~ (53) "Wetland" or "wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and lands having one or more of the following attributes at least periodically: The land supports predominantly hydrophytes; the substrate is predominantly undrained hydric soil; and the substrate is nonsoil and saturated with water or covered by shallow water at some time during the growing season each year.

AMENDATORY SECTION (Amending Order 91-13, filed 4/23/92, effective 5/24/92)

WAC 173-183-230 RDA committee. (1) The following state agencies shall have membership on the RDA committee: Departments of archaeology and historic preservation, ecology, ~~((fisheries))~~ fish and wildlife, health, natural

resources, (~~wildlife~~) and the parks and recreation commission.

(2) Agencies with membership on the RDA committee shall nominate a representative and alternate to be appointed to the committee by the director.

(3) The department of ecology shall chair the RDA committee.

(4) The department may select representatives from the following agencies and governments for participation on the RDA committee on a spill-by-spill basis: Departments of emergency management, as well as other federal, state, and local agencies, and tribal and local governments whose presence would enhance reconnaissance or damage assessment activities of spill response.

If a selected representative declines or is unable to participate on the committee, the representative shall provide written notice to the department within twelve hours of being notified so that a replacement member may be appointed. Prompt consideration will be given to other local, state, or federal agency, or tribal government requests for participation on the RDA committee on a spill-by-spill basis.

(5) The RDA committee shall convene as soon as possible, but no later than thirty days after the department receives notification of a spill, or the next regularly scheduled meeting of the committee following a spill.

AMENDATORY SECTION (Amending Order 07-14, filed 11/7/07, effective 12/8/07)

WAC 173-183-320 Compensation schedule. (1) The compensation schedule determines adequate compensation for unquantifiable damages or for damages not quantifiable at a reasonable cost for persons liable under RCW 90.48.142.

(2) Adequate compensation as determined from the compensation schedule is derived from preexisting information of resource vulnerability to a class of oil spilled in a particular subregion of the state during a particular season, plus any additional information collected at the reconnaissance stage of the spill response.

(3) Under RCW 90.48.366, the amount of compensation assessed under this schedule shall be:

(a) For spills totaling one thousand gallons or more in any one event, no less than three dollars per gallon of oil spilled and no greater than three hundred dollars per gallon of oil spilled; and

(b) For spills totaling less than one thousand gallons in any one event, no less than one dollar per gallon of oil spilled and no greater than one hundred dollars per gallon of oil spilled.

AMENDATORY SECTION (Amending Order 91-13, filed 4/23/92, effective 5/24/92)

WAC 173-183-330 Resource damage assessment using the compensation schedule. The compensation schedule includes:

(1) A relative ranking for each of the classes of oil defined in this chapter as determined by their known chemical, physical, and mechanical properties, and other factors that may affect the severity and persistence of the spill on the receiving environment;

(2) A relative vulnerability ranking of receiving environments which takes into account location of the spill, habitat and public resource sensitivity to oil, seasonal distribution of public resources, areas of recreational use and aesthetic importance, the proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law, and other areas of special ecological or recreational importance as determined by the department;

(3) A quantitative method for determining public resource damages resulting from an oil spill, based on the oil effects and vulnerability rankings designed to compensate the people of this state for those damages that cannot be quantified at a reasonable cost that result from oil spills; and

(4) A method for adjusting damages calculated under the compensation schedule based on recovery actions taken by the potentially liable party (~~that~~:

~~(a) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or~~

~~(b) Enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife)).~~

AMENDATORY SECTION (Amending Order 91-13, filed 4/23/92, effective 5/24/92)

WAC 173-183-400 Vulnerability of marine and estuarine environments to oil spills. (1) The purpose of this section is to describe the method of ranking vulnerability of marine and estuarine environments, excluding the Columbia River estuary environment to oil spills for the purposes of assessing damages using the compensation schedule.

(2) Marine and estuarine waters of the state excluding the Columbia River estuary are divided into sixteen regions and one hundred thirty-one subregions for purposes of RCW 90.48.366, as designated on the maps attached as Appendix 5 of this chapter.

(3) A spill vulnerability score (SVS) shall be calculated at the time of a spill for the most sensitive subregion and season impacted by the spill. The SVS rates the vulnerability of public resources to spilled oil based on the propensity of the oil to cause acute toxicity and mechanical injury, and to persist in the environment. SVS is determined by summing the vulnerability scores for marine birds, marine mammals, fishery species, recreational use and habitats for the subregion(s) and most sensitive season impacted by the spill. The formula to be used to calculate SVS for each of the three oil effects, acute toxicity, mechanical injury, and persistence, is as follows:

$$\text{Spill vulnerability score (SVS)}_i = \text{HVS}_i + \text{BVS}_j + \text{MVS}_j + \text{MFVS}_j + \text{SFVS}_j + \text{SAVS}_j + \text{RVS}_j$$

where HVS_i = habitat vulnerability to oil's propensity to cause i

BVS = marine bird vulnerability score (WAC 173-183-420(3));

MVS = marine mammal vulnerability score (WAC 173-183-460(3));

MFVS = marine fisheries vulnerability score (WAC 173-183-430(3));

SFVS = shellfish vulnerability score (WAC 173-183-440(3));

SAVS = salmon vulnerability score (WAC 173-183-450(5));

RVS = recreation vulnerability score (WAC 173-183-470(3));

i = acute toxicity (AT), mechanical injury (MI), or persistence ((~~PER~~) PER); and

j = the most sensitive season affected by the spill: Spring, summer, fall, or winter

AMENDATORY SECTION (Amending Order 91-13, filed 4/23/92, effective 5/24/92)

WAC 173-183-810 On-scene coordinator responsibilities. (1) The OSC ((~~or department responder,~~) or ((his or her)) designee((-)) shall make the following determinations:

(a) Quantity and type of oil spilled;

(b) Extent and location of the spill; ((~~and~~))

(c) Whether containment of spilled oil was effective within the times specified in WAC 173-183-870 (1)(c) and (d);

(d) Whether spilled oil contacted the shoreline within the times specified in WAC 173-183-870 (1)(c) and (d); and

(e) The amount of oil cleaned up on a daily basis, and in total.

(2) The RDA committee shall allow the potentially liable party an opportunity to submit further information on the determinations made by the OSC in subsection (1) of this section.

(3) The potentially liable party (PLP) may hire an independent expert to determine the volume of oil spilled and ((~~cleaned up~~) recovered, including the volume ((~~cleaned up~~) recovered within the first ((~~six hours~~) twenty-four hours for nonpersistent oil and forty-eight hours for persistent oil after spill initiation. The volume determinations made by the independent expert shall be used in calculations of damages under the compensation schedule if the independent expert selected is acceptable to both the PLP and the department. Determinations by the mutually agreed upon independent expert of the quantity of oil spilled and cleaned up shall be provided to the RDA committee chair within sixty days of the spill under consideration.

((~~3~~)) (4) The OSC ((~~or department responder,~~) shall provide the information enumerated in subsection (1) of this section to the RDA committee chair in a timely manner.

AMENDATORY SECTION (Amending Order 08-14, filed 3/10/09, effective 4/10/09)

WAC 173-183-830 Calculation of damages for spills into marine and estuarine waters, except the Columbia River estuary. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for

spills into marine and estuarine waters, except the estuarine waters of Columbia River. The value of the variables used in the formula shall be determined by:

(a) The OSC as enumerated in WAC 173-183-810(1);

(b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and

(c) The RDA committee chair as enumerated in WAC 173-183-820 (1)(a).

(2) In making the determination of percent-coverage of habitat types, the RDA committee chair may assume that the habitat-type visible at low tide extends out to the 20 meter depth contour.

(3) Damages liability shall be calculated using the following formula:

$$((\text{Damages } (\$)) = \text{gallons spilled} * 0.208 * [(OIL_{AT} * SVS_{ATj}) + (OIL_{MI} * SVS_{MIj}) + (OIL_{PER} * SVS_{PERj})])$$

where: gallons spilled = the number of gallons of oil spilled as determined by the procedures outlined in WAC 173-183-810;

SVS_{ij} = spill vulnerability score (from WAC 173-183-400(3));

OIL_{AT} = Acute Toxicity Score for Oil (from WAC 173-183-340);

OIL_{MI} = Mechanical Injury Score for Oil (from WAC 173-183-340); and

OIL_{PER} = Persistence Score for Oil (from WAC 173-183-340).

i = acute toxicity, mechanical injury and persistence effect of oil

j = the most sensitive season affected by the spill

0.208 = multiplier to adjust the damages calculated to the \$1-100 per gallon range.)

Damages (\$) =

$$x * [(OIL_{AT} * SVS_{ATj} * \text{total gallons spilled}) + (OIL_{MI} * SVS_{MIj} * \text{total gallons spilled}) + (OIL_{PER} * SVS_{PERj} * \text{total gallons spilled})]$$

where: total gallons spilled = the number of gallons of oil spilled as determined by the procedures outlined in WAC 173-183-810;

SVS_{ij} = spill vulnerability score (from WAC 173-183-400(3));

OIL_{AT} = Acute Toxicity Score for Oil (from WAC 173-183-340);

OIL_{MI} = Mechanical Injury Score for Oil (from WAC 173-183-340); and

OIL_{PER} = Persistence Score for Oil (from WAC 173-183-340).

i = acute toxicity, mechanical injury and persistence effect of oil

j = the most sensitive season affected by the spill

x = multiplier of 0.208 for spills less than 1000 gallons in volume to adjust the damages calculated to the \$1-100 per gallon range.

x = multiplier of 0.624 for spills of 1000 gallons or more in volume to adjust the damages calculated to the \$3-300 per gallon range.

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up. For spills less than one thousand gallons, when the formula results in damages less than one dollar per gallon, the damages shall be adjusted to the minimum of one dollar per gallon spilled. For spills of one thousand gallons or more in volume, when the formula results in damages less than three dollars per gallon, the damages shall be adjusted to the minimum of three dollars per gallon spilled.

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 (Amending Order 08-14, filed 3/10/09, effective 4/10/09)

WAC 173-183-840 Calculation of damages for spills into the Columbia River estuary. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into the estuarine waters of Columbia River. The value of the variables used in the formula shall be determined by:

- (a) The OSC as enumerated in WAC 173-183-810(1);
- (b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and
- (c) The RDA committee chair as enumerated in WAC 173-183-820 (1)(b).

(2) Damages liability shall be calculated using the following formula:

~~((Damages (\$) =~~

~~gallons spilled * 0.508 * SVS_j * (OIL_{AT} + OIL_{MI} + OIL_{PER})~~

~~where: gallons spilled = the number of gallons of oil spilled as determined by procedures outlined in WAC 173-183-810~~

~~SVS_j = spill vulnerability score (from WAC 173-183-500(3));~~

~~j = the most sensitive season affected by the spill~~

~~OIL_{AT} = Acute Toxicity Score for Oil (from WAC 173-183-360);~~

~~OIL_{MI} = Mechanical Injury Score for Oil (from WAC 173-183-360); and~~

~~OIL_{PER} = Persistence Score for Oil (from WAC 173-183-360).~~

~~0.508 = multiplier to adjust the damages calculated to the \$1-100 per gallon range.))~~

Damages (\$) =

x * [(OIL_{AT} * SVS_j * total gallons spilled) + (OIL_{MI} * SVS_j * total gallons spilled) + (OIL_{PER} * SVS_j * total gallons spilled)]

where: total gallons spilled = the number of gallons of oil spilled as determined by procedures outlined in WAC 173-183-810;

SVS_j = spill vulnerability score (from WAC 173-183-500(5));

j = the most sensitive season affected by the spill

OIL_{AT} = Acute Toxicity Score for Oil (from WAC 173-183-340);

OIL_{MI} = Mechanical Injury Score for Oil (from WAC 173-183-340); and

OIL_{PER} = Persistence Score for Oil (from WAC 173-183-340).

x = multiplier of 0.508 for spills less than 1000 gallons in volume to adjust the damages calculated to the \$1-100 per gallon range.

x = multiplier of 1.524 for spills of 1000 gallons or more in volume to adjust the damages calculated to the \$3-300 per gallon range.

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up. For spills less than one thousand gallons, when the formula results in damages less than one dollar per gallon, the damages shall be adjusted to the minimum of one dollar per gallon spilled. For spills of one thousand gallons or more in volume, when the formula results in damages less than three dollars per gallon, the damages shall be adjusted to the minimum of three dollars per gallon spilled.

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 (Amending Order 08-14, filed 3/10/09, effective 4/10/09)

WAC 173-183-850 Calculation of damages for spills in freshwater streams, rivers, and lakes. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into freshwater streams, rivers, and lakes. The value of the variables used in the formula shall be determined by:

- (a) The OSC as enumerated in WAC 173-183-810(1);
- (b) The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and
- (c) The RDA committee chair as enumerated in WAC 173-183-820 (1)(c).

(2) Damages liability shall be calculated using the following formula:

~~((Damages (\$) =~~
~~gallons spilled * 0.162 * SVS * (OIL_{AT} + OIL_{MI}~~
~~+ OIL_{PER})~~
 where: ~~gallons spilled = the number of gallons of oil~~
~~spilled as determined by the procedures outlined in~~
~~WAC 173-183-810;~~
~~SVS = Spill vulnerability score [from WAC 173-~~
~~183-600(3)];~~
~~OIL_{AT} = Acute Toxicity Score for Oil [from WAC-~~
~~173-183-340];~~
~~OIL_{MI} = Mechanical Injury Score for Oil [from~~
~~WAC 173-183-340]; and~~
~~OIL_{PER} = Persistence Score for Oil [from WAC 173-~~
~~183-340].~~
~~0.162 = multiplier to adjust damages calculated to~~
~~the \$1-100 per gallon range;))~~

Damages (\$) =
 $x * [(OIL_{AT} * SVS * \text{total gallons spilled}) + (OIL_{MI} * SVS * \text{total gallons spilled}) + (OIL_{PER} * SVS * \text{total gallons spilled})]$
 where: total gallons spilled = the number of gallons of oil
spilled as determined by the procedures outlined in
WAC 173-183-810;
SVS = Spill vulnerability score (from WAC 173-
183-600(3));
OIL_{AT} = Acute Toxicity Score for Oil (from WAC
173-183-340);
OIL_{MI} = Mechanical Injury Score for Oil (from
WAC 173-183-340); and
OIL_{PER} = Persistence Score for Oil (from WAC
173-183-340).
x = multiplier of 0.162 for spills less than 1000 gal-
lons in volume to adjust the damages calculated to
the \$1-100 per gallon range.
x = multiplier of 0.486 for spills of 1000 gallons or
more in volume to adjust the damages calculated to
the \$3-300 per gallon range.

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up. For spills less than one thousand gallons, when the formula results in damages less than one dollar per gallon, the damages shall be adjusted to the minimum of one dollar per gallon spilled. For spills of one thousand gallons or more in volume, when the formula results in damages less than three dollars per gallon, the damages shall be adjusted to the minimum of three dollars per gallon spilled.

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 (Amending Order 08-14, filed 3/10/09, effective 4/10/09)

WAC 173-183-860 Calculation of damages for spills into freshwater wetlands. (1) The formula provided in subsection (2) of this section shall be used to determine damages liability for spills into freshwater wetlands. The value of the variables used in the formula shall be determined by:

- The OSC as enumerated in WAC 173-183-810(1);
- The mutually agreed upon independent expert, if applicable, as described in WAC 173-183-810(2); and
- The RDA committee chair as enumerated in WAC 173-183-820 (1)(d).

(2) Damages liability shall be calculated using the following formula:

~~((Damages (\$) =~~
~~gallons spilled * 1.620 * SVS * (OIL_{AT} + OIL_{MI}~~
~~+ OIL_{PER})~~
 where: ~~gallons spilled = the number of gallons of oil~~
~~spilled as determined by procedures outlined in~~
~~WAC 173-183-810;~~
~~SVS = Spill vulnerability score [from WAC 173-~~
~~183-700(3)];~~
~~OIL_{AT} = Acute Toxicity Score for Oil [from WAC-~~
~~173-183-340];~~
~~OIL_{MI} = Mechanical Injury Score for Oil [from~~
~~WAC 173-183-340]; and~~
~~OIL_{PER} = Persistence Score for Oil [from WAC-~~
~~173-183-340].~~
~~1.620 = multiplier to adjust damages calculated to~~
~~the \$1-100 per gallon range;))~~

Damages (\$) =
 $x * [(OIL_{AT} * SVS * \text{total gallons spilled}) + (OIL_{MI} * SVS * \text{total gallons spilled}) + (OIL_{PER} * SVS * \text{total gallons spilled})]$
 where: total gallons spilled = the number of gallons of oil
spilled as determined by the procedures outlined in
WAC 173-183-810;
SVS = Spill vulnerability score (from WAC 173-
183-700(3));
OIL_{AT} = Acute Toxicity Score for Oil (from WAC
173-183-340);
OIL_{MI} = Mechanical Injury Score for Oil (from
WAC 173-183-340); and
OIL_{PER} = Persistence Score for Oil (from WAC
173-183-340).
x = multiplier of 1.620 for spills less than 1000 gal-
lons in volume to adjust the damages calculated to
the \$1-100 per gallon range.
x = multiplier of 4.860 for spills of 1000 gallons or
more in volume to adjust the damages calculated to
the \$3-300 per gallon range.

Formula results shall be rounded to the nearest 0.01 to determine damages liability as follows: Decimals less than 0.005 shall be rounded down, and decimals equal to or greater than 0.005 shall be rounded up. For spills less than one thousand gallons, when the formula results in damages less than one dollar per gallon, the damages shall be adjusted to the minimum of one dollar per gallon spilled. For spills of one thousand gallons or more in volume, when the formula results in damages less than three dollars per gallon, the damages shall be adjusted to the minimum of three dollars per gallon spilled.

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 (Amending Order 91-13, filed 4/23/92, effective 5/24/92)

WAC 173-183-870 ((Modification of damages based on actions taken by the PLP.)) Reduction of damages based on actions taken by the potential liable party (PLP). ~~((1) Damages calculated under WAC 173-183-830 through 173-183-860 may be reduced by the amounts specified in subsections (2) through (5) of this section, as determined by the RDA committee, in the following cases:~~

~~(a) Where the potentially liable party takes an action that results in no spill exposure and no injury to the following special features: Seal and sea lion haulouts, public recreational areas, smelt, sand lance, and herring spawning areas, salmon concentration areas, hardshell and softshell clam beds, and seabird breeding colonies;~~

~~(b) Where the potentially liable party takes an action that restores, rehabilitates, or enhances resources injured by the spill; and~~

~~(c) Where the potentially liable party immediately booms spilled oil that has not come into contact with the shore, in areas where water depth is greater than twenty meters, and immediately removes the spilled oil that has been contained in booming.~~

~~(2) When the conditions specified under subsection (1)(a) of this section are met, compensation shall be reduced by the amount that the special feature that was protected contributed to the amount of damages calculated under WAC 173-183-830 through 173-183-860. Decisions on how much the protected special feature contributed to the amount of damages calculated under the compensation schedule shall be made by the RDA committee.~~

~~(3) When conditions specified under subsection (1)(b) of this section are met, amount of damages calculated under WAC 173-183-830 through 173-183-860 may be reduced. Decisions on reduction of damages shall be made by the RDA committee.~~

~~(4) When the conditions specified under subsection (1)(c) of this section are met, the damages calculated under WAC 173-183-830 through 173-183-860 shall be reduced as described by the following steps:~~

~~(a) Two separate damages calculations shall be made using the applicable damage liability formula(s) provided in WAC 173-183-830 through 173-183-860. The number of gallons used in the first formula shall be the number of gallons immediately removed from the receiving environment as~~

~~described in subsection (1)(c) of this section. The number of gallons used the second formula shall be the number of gallons spilled but not immediately removed from the receiving environment. The values of all other formula variables shall be as defined for the applicable formulas in WAC 173-183-830 through 173-183-860, except as described in subsection (4)(b) of this section;~~

~~(b) The values of the mechanical injury (OIL_{MH}) and persistence (OIL_{PER}) scores for oils shall be reduced by ten percent in the first formula; and~~

~~(c) Damages derived from the first and second formulas shall be added together to calculate the reduced damages liability.~~

~~(5) In no case shall the modifications to compensation enumerated in subsections (1) through (4) of this section result in a reduction of damages to less than one dollar per gallon of oil spilled.) (1) Damages liability calculated under WAC 173-183-830 through 173-183-860 may be reduced by the RDA committee based on post-spill actions by the PLP. Post-spill actions by the PLP that the RDA committee will evaluate are:~~

~~(a) Actions that result in effective containment of spilled oil, as determined by the state on-scene coordinator (OSC).~~

~~(b) Actions that keep spilled oil from contacting the shoreline, as determined by the state on-scene coordinator (OSC).~~

~~(c) Actions that recover spilled nonpersistent oil from the water's surface within twenty-four hours of the oil first entering the water. Spilled oil that consists of a combination of spilled nonpersistent and spilled persistent oil will be considered a nonpersistent oil.~~

~~(d) Actions that recover spilled persistent oil from the surface of the water within forty-eight hours of the oil first entering the water.~~

~~(2)(a) The RDA committee may only reduce resource damages under this section based on documented recovery data submitted to ecology by the PLP. The RDA committee may request additional information to facilitate recovery credit calculations. The data may be submitted on form number ECY-050-49, or other means that are acceptable to ecology. The submission may be electronic or other means that are acceptable to ecology. Measurement and documentation of recovered oil must be accomplished by the methods described in subsection (8) of this section, or as approved by the state OSC.~~

~~(b) Along with the data submitted by the PLP, the PLP must also submit:~~

~~(i) A statement signed and dated by the PLP or their representative, which states: "The data submitted are correct and accurate to the best of my knowledge."~~

~~(ii)(A) A statement signed by the state OSC that containment was either effective or not effective; and~~

~~(B) That spilled oil did or did not contact the shoreline;~~

~~(iii) A statement signed and dated by the state OSC that states: "I accept the information provided by the PLP and attest to the recovery data provided."~~

~~(c) The PLP must allow the state on-scene coordinator or their representative the opportunity to observe recovery credit calculation operations (storage, weighing, squeezing, and sampling).~~

(3)(a) When the conditions specified under subsection (1)(a), (b), and (c) of this section are met, calculation of damages under WAC 173-183-830(3) is modified by having the mechanical injury and persistence components multiplied by the difference between the total gallons spilled, as determined by WAC 173-183-810, and the gallons of nonpersistent oil recovered from the water by spill responders within twenty-four hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_{ATJ}} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_{MI}} * Oil_{MI} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\}) + (SV_{S_{PER}} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-830(3).

(b) When the conditions specified under subsection (1)(a), (b), and (c) of this section are met, calculation of damages under WAC 173-183-840(2) is modified by having the mechanical injury and persistence components multiplied by the difference between the total gallons spilled, as determined by WAC 173-183-810, and the gallons of nonpersistent oil recovered from the water by spill responders within twenty-four hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_j} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_j} * Oil_{MI} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\}) + (SV_{S_j} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-840(2).

(c) When the conditions specified under subsection (1)(a), (b), and (c) of this section are met, calculation of damages under WAC 173-183-850(2) and 173-183-860(2) is modified by having the mechanical injury and persistence components multiplied by the difference between the total gallons spilled, as determined by WAC 173-183-810, and the gallons of nonpersistent oil recovered from the water by spill responders within twenty-four hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_j} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_j} * Oil_{MI} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\}) + (SV_{S_j} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-850(2) or 173-183-860(2).

(4)(a) When only the conditions specified under subsection (1)(c) of this section are met, calculation of damages under WAC 173-183-830(3) is modified by having the persistence components multiplied by the difference between the total gallons spilled and the gallons of nonpersistent oil recovered from the water by spill responders within twenty-four hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_{ATJ}} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_{MI}} * Oil_{MI} * \text{total gallons spilled}) + (SV_{S_{PER}} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-830(3).

(b) When only the conditions specified under subsection (1)(c) of this section are met, calculation of damages under WAC 173-183-840(2) is modified by having the persistence components multiplied by the difference between the total gallons spilled and the gallons of nonpersistent oil recovered from the water by spill responders within twenty-four hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_j} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_j} * Oil_{MI} * \text{total gallons spilled}) + (SV_{S_j} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-840(2).

(c) When only the conditions specified under subsection (1)(c) of this section are met, calculation of damages under WAC 173-183-850(2) and 173-183-860(2), is modified by having the persistence components multiplied by the difference between the total gallons spilled and the gallons of nonpersistent oil recovered from the water by spill responders within twenty-four hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_j} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_j} * Oil_{MI} * \text{total gallons spilled}) + (SV_{S_j} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 24 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-850(2) or 173-183-860(2).

(5)(a) When the conditions specified under subsection (1)(a), (b), and (d) of this section are met, calculation of damages under WAC 173-183-830(3) is modified by having the mechanical injury and persistence components multiplied by the difference between the total gallons spilled, as determined by WAC 173-183-810, and the gallons of persistent oil recovered from the water by spill responders within forty-eight hours, such that:

$$\text{Damages (\$)} = x * [(SV_{S_{ATJ}} * Oil_{AT} * \text{total gallons spilled}) + (SV_{S_{MI}} * Oil_{MI} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\}) + (SV_{S_{PER}} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\})]$$

x = appropriate multiplier as determined in WAC 173-183-830(3).

(b) When the conditions specified under subsection (1)(a), (b), and (d) of this section are met, calculation of damages under WAC 173-183-840(2) is modified by having the mechanical injury and persistence components multiplied by the difference between the total gallons spilled, as determined by WAC 173-183-810, and the gallons of persistent oil recovered from the water by spill responders within forty-eight hours, such that:

Damages (\$) = $x * [(SVS_{AT} * Oil_{AT} * \text{total gallons spilled}) + (SVS_{MI} * Oil_{MI} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\}) + (SVS_{PER} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\})]$

x = appropriate multiplier as determined in WAC 173-183-840(2).

(c) When the conditions specified under subsection (1)(a), (b), and (d) of this section are met, calculation of damages under WAC 173-183-850(2) and 173-183-860(2) is modified by having the mechanical injury and persistence components multiplied by the difference between the total gallons spilled, as determined by WAC 173-183-810, and the gallons of persistent oil recovered from the water by spill responders within forty-eight hours, such that:

Damages (\$) = $x * [(SVS * Oil_{AT} * \text{total gallons spilled}) + (SVS * Oil_{MI} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\}) + (SVS * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\})]$

x = appropriate multiplier as determined in WAC 173-183-850(2) or 173-183-860(2).

(6)(a) When only the conditions specified under subsection (1)(d) of this section are met, calculation of damages under WAC 173-183-830(3) is modified by having the persistence components multiplied by the difference between the total gallons spilled and the gallons of persistent oil recovered from the water by spill responders within forty-eight hours, such that:

Damages (\$) = $x * [(SVS_{AT} * Oil_{AT} * \text{total gallons spilled}) + (SVS_{MI} * Oil_{MI} * \text{total gallons spilled}) + (SVS_{PER} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\})]$

x = appropriate multiplier as determined in WAC 173-183-830(3).

(b) When only the conditions specified under subsection (1)(d) of this section are met, calculation of damages under WAC 173-183-840(2) is modified by having the persistence components multiplied by the difference between the total gallons spilled and the gallons of persistent oil recovered from the water by spill responders within forty-eight hours, such that:

Damages (\$) = $x * [(SVS_{AT} * Oil_{AT} * \text{total gallons spilled}) + (SVS_{MI} * Oil_{MI} * \text{total gallons spilled}) + (SVS_{PER} * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\})]$

x = appropriate multiplier as determined in WAC 173-183-840(2).

(c) When only the conditions specified under subsection (1)(d) of this section are met, calculation of damages under WAC 173-183-850(2) and 173-183-860(2), is modified by having the persistence components multiplied by the difference between the total gallons spilled and the gallons of persistent oil recovered from the water by spill responders within forty-eight hours, such that:

Damages (\$) = $x * [(SVS * Oil_{AT} * \text{total gallons spilled}) + (SVS * Oil_{MI} * \text{total gallons spilled}) + (SVS * Oil_{PER} * \{\text{total gallons spilled} - \text{gallons recovered in 48 hours}\})]$

x = appropriate multiplier as determined in WAC 173-183-850(2) or 173-183-860(2).

(7) In no case shall the modifications to damages liability enumerated in subsections (3) through (6) of this section result in a reduction of damages to less than one dollar per gallon of oil spilled for those spills of less than one thousand gallons total, and three dollars per gallon of oil spilled for those spills of one thousand gallons or more in total.

(8)(a) To reduce resource damage liability, the PLP must provide oil recovery information to the OSC. The PLP may provide the information required in (b) of this subsection on form number ECY-050-49, or other means that are acceptable to ecology. The submission may be electronic or other means that are acceptable to ecology. Ecology may request additional information if it is needed to facilitate recovery credit calculations.

(b) The information provided must include:

(i) Date and time of the initial spill.

(ii) Date and time of when mechanical recovery operations ended, when oiled sorbents were removed from the water, and when oiled debris were removed from the water.

(iii) Name and contact information for the PLP.

(iv) Name of the contractors doing clean-up work, if different than the PLP.

(v) Spill source and location.

(vi) Oil type - Common name (gasoline, diesel, jet fuel, aviation fuel, kerosene, lube oil, hydraulic oil, transformer mineral oil, bunker oil, intermediate fuel oil, crude oil, asphalt, vegetable oil, other).

(vii) Specific gravity of the spilled oil and a determination of whether it is nonpersistent or persistent by definition (see WAC 173-183-100 (25) and (30)).

(viii) For persistent oils (WAC 173-183-100(30)), laboratory data that specifies the specific gravity of the oil.

(ix)(A) For mechanical or hand recovery operations, a record signed by the PLP's on-scene supervisor of the amount, in gallons, of water-oil mix, water, and oil in the

storage device before recovery operations start. This record must be created prior to using the storage device for recovery operations. The amount of oil in each storage device used must be physically measured by measuring the thickness of oil on the water surface.

(B) To receive credit for oil mixed with water, including dissolved fractions or emulsified oil, oil must be measured by the collection of at least two representative samples of the water fraction from each storage device. The samples must be analyzed for oil content by a laboratory agreed upon by the OSC and PLP, and the results shared with the OSC.

(x) Verification that all oleophilic sorbent materials recovered from the water were stored separate from other spill generated wastes, were stored in double plastic bags to reduce leakage and evaporation, and were kept out of the rain as much as practicable.

(xi) For volumetric calculations of spent oleophilic sorbent materials, the PLP must provide the total gallons of mixed water-oil squeezed from the sorbents, the total water recovered, and total oil recovered. Oil remaining in the pads must then be calculated following (b)(xii) of this subsection.

(xii)(A) For gravimetric calculations of spent oleophilic sorbent materials, the PLP must provide the total weight of oiled sorbents, total weight of preoiled sorbents, total weight of recovered oil, and make the conversion to total gallons of oil recovered.

(B) Unless demonstrated otherwise by the PLP, the water content of spent oleophilic sorbent material is assumed to be twenty-five percent by weight.

(xiii) Verification that oiled debris removed from the water was collected with minimal water and stored separately from other spill generated wastes.

(xiv)(A) For recovery credit for oil recovered from debris on the water's surface, the PLP must take two representative samples of oiled debris from each area where debris is collected and have it analyzed for oil content by weight at a laboratory agreed upon by the OSC and PLP. The laboratory results must be shared with the OSC.

(B) The PLP must provide the weight of all the oiled debris recovered from the water from each collection area, the total weight of the oil in the debris based on (b)(xiv)(A) of this subsection, and the total gallons of oil in the debris.

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 13-01-075
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed December 18, 2012, 12:54 p.m., effective January 18, 2013]

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

Purpose: The division of child support (DCS) is adopting new and amended sections in chapter 388-14A WAC, intended as technical corrections to the rules adopted under WSR 11-22-116 which took effect on December 3, 2011. Those rules were adopted to implement changes in the fed-

eral regulations concerning establishing and enforcing inter-governmental child support obligations.

AMENDED SECTIONS: WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-1025 What are the responsibilities of the division of child support?, 388-14A-1030 What kinds of services can the division of child support provide?, 388-14A-1036 Who can request DCS locate services?, 388-14A-1050 The division of child support cooperates with tribes and other states and (Indian tribes) countries for support enforcement purposes, 388-14A-1055 Can the division of child support collect support owed or assigned to another state, tribe or country?, 388-14A-2000 Who can receive child support enforcement services from the division of child support?, 388-14A-2010 Can I apply for support enforcement services if I do not receive public assistance?, 388-14A-2015 Does DCS accept an application from someone who is not a resident of Washington state?, 388-14A-3350 Are there any limits on how much back support the division of child support can seek to establish?, 388-14A-3370 What legal defenses are available to a noncustodial parent when DCS seeks to enforce a support obligation?, 388-14A-3800 Once a support order is entered, can it be changed?, 388-14A-3810 Once an administrative child support order is entered, how long does the support obligation last?, 388-14A-3900 Does DCS review my support order to see if it should be modified?, 388-14A-3901 Under what circumstances does DCS review a support order for modification?, 388-14A-3925 Who can ask to modify an administrative support order?, 388-14A-7100 The division of child support may register an order from a tribe or another state or country for enforcement or modification, 388-14A-7110 The division of child support may enforce interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state, 388-14A-7115 Are there special rules for a hearing on a notice seeking to enforce interest on a support order?, 388-14A-7120 When does DCS update the interest on an intergovernmental case for enforcement?, 388-14A-7400 What can I do if I want to contest an (interstate) intergovernmental order to withhold income served on my employer?, 388-14A-7500 What can I do if I am concerned about the release of my personal information in an (interstate) intergovernmental referral? and 388-14A-8300 Who pays for genetic testing when paternity is an issue?; and NEW SECTIONS: WAC 388-14A-7600 Does DCS provide the same services in an intergovernmental case as it provides in a case where both parties reside in the state of Washington?, 388-14A-7610 The division of child support complies with federal requirements regarding intergovernmental cases, 388-14A-7620 How does DCS provide information to another jurisdiction in an intergovernmental case?, 388-14A-7630 What limited services does DCS provide?, 388-14A-7640 Payment and recovery of costs in intergovernmental IV-D cases, 388-14A-7650 What kind of federal audit requirements are there for intergovernmental cases?, 388-14A-7700 How does the division of child support (DCS) decide that a new case is an intergovernmental case?, 388-14A-7710 What does the division of child support (DCS) do when it decides that a case is an intergovernmental case?, 388-14A-7720 What is the division of child support (DCS) required to do when Washington is the initiating jurisdiction

in an intergovernmental case?, 388-14A-7800 What is the division of child support (DCS) required to do when Washington receives a request for intergovernmental child support services?, 388-14A-7810 What is the division of child support (DCS) required to do when DCS receives a request for a determination of controlling order?, and 388-14A-7820 What is the division of child support (DCS) required to do when DCS acts as the responding jurisdiction in an intergovernmental case?

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-1020, 388-14A-1025, 388-14A-1030, 388-14A-1036, 388-14A-1050, 388-14A-1055, 388-14A-2000, 388-14A-2010, 388-14A-2015, 388-14A-3350, 388-14A-3370, 388-14A-3800, 388-14A-3810, 388-14A-3900, 388-14A-3901, 388-14A-3925, 388-14A-7100, 388-14A-7110, 388-14A-7115, 388-14A-7120, 388-14A-7400, 388-14A-7500, and 388-14A-8300.

Statutory Authority for Adoption: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310.

Other Authority: 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2.

Adopted under notice filed as WSR 12-21-026 on October 9, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 12, Amended 23, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 23, Repealed 0.

Date Adopted: December 12, 2012.

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 13-03 issue of the Register.

WSR 13-01-076

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 18, 2012, 12:57 p.m., effective January 18, 2013]

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

Purpose: To add new sections to chapter 388-828 WAC, Division of developmental disabilities assessment rules to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medi-

care and Medicaid Services. These changes define the methodology used to determine eligibility for employment support services.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapter 49, Laws of 2012 (SSB 6384).

Adopted under notice filed as WSR 12-18-069 on September 4, 2012.

Changes Other than Editing from Proposed to Adopted Version: Changed "not working" to "in training/job development" in WAC 388-828-9330 and 388-828-9335.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 8, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 0.

Date Adopted: December 11, 2012.

Katherine I. Vasquez
Rules Coordinator

DDD EMPLOYMENT ACUITY SCALE

NEW SECTION

WAC 388-828-9325 How does DDD determine the number of hours you may receive for employment support services? DDD determines the number of hours you may receive for employment services using information from the following:

(1) Your employment support level determined as described in WAC 388-828-9205;

(2) Your employment status determined as described in WAC 388-828-9330;

(3) Your employment service level and employment service hours determined as described in WAC 388-828-9335;

(4) Your employment service type;

(5) You meet one of the conditions identified as described in WAC 388-828-9345 and require add-on hours identified in WAC 388-828-9350.

NEW SECTION

WAC 388-828-9330 How does DDD determine your employment status? DDD determines your employment status to be:

(1) **"Working"** when you meet one of the following conditions:

(a) In the twelve months prior to your assessment:

(i) You have been employed for nine consecutive months; and

- (ii) You have earned at least minimum wage.
- (b) You are currently self-employed and meet one of the following:
 - (i) The activities of your employment meet the Internal Revenue Service (IRS) rules for a business;
 - (ii) You have a business plan demonstrating feasibility as determined by the division of vocational rehabilitation or an impartial, agreed upon, third party business expert; or
 - (iii) You are licensed, if required, and follow all local, state, and federal regulations and rules.
- (2) **"In training/job development"** when you do not meet either of the conditions for "working."

NEW SECTION

WAC 388-828-9335 How does DDD determine your employment service level? DDD determines your employment service level using the following table:

If your employment support level in WAC 388-828-9205 is:	And your employment status in WAC 388-828-9330 is:	Then your employment service level is:	And your employment service hours per month are:
None	Working	A	0
	In Training/ Job Development	B	0
Low	Working	C	4
	In Training/ Job Development	D	7
Medium	Working	E	7
	In Training/ Job Development	F	9
High	Working	G	11
	In Training/ Job Development	H	12

NEW SECTION

WAC 388-828-9340 How does your employment service type affect how your employment service hours are used? Your employment service type determines where and how your service hours are provided.

- (1) Individual supported employment:
 - (a) Your employment services are provided in typical community-based settings;
 - (b) The focus of employment services is on obtaining and/or maintaining integrated employment at or above the state's minimum wage in the general workforce; and
 - (c) Your employment services are not shared with others.
- (2) Group supported employment:
 - (a) Your employment services are provided in typical community-based settings;
 - (b) The focus of employment services is on providing ongoing supervised employment that will lead to greater opportunities for competitive and integrated employment and career advancement at or above minimum wage; and
 - (c) Your employment service provider works with you and others in a group setting.
- (3) Prevocational services:

- (a) Your employment services are:
 - (i) Provided in specialized or segregated settings for individuals with developmental disabilities; and
 - (ii) Include monthly employment related activities in the community.
- (b) Service and supports are designed to further habilitation goals that will lead to greater opportunities for competitive and integrated employment and career advancement at or above the state's minimum wage; and
- (c) Your employment service provider works with you and others in a group setting.

NEW SECTION

WAC 388-828-9345 Can you receive fewer than the number of hours allocated to you in your employment service level? Yes. You may be authorized to receive fewer than the number of hours allocated if one or more of the following factors is detailed on your employment plan:

- (1) You can independently find and maintain employment.
- (2) Your employment is stable and you need few support hours to maintain it.
- (3) You have natural supports from co-workers, family, friends, or others who support you in finding and maintaining a job.
- (4) Your job schedule does not require the full amount of supports allocated to your supported employment service level.
- (5) You choose to receive fewer hours of support than are allocated for your supported employment service level.
- (6) There are other factors in your employment plan which indicate you can find and maintain a job with fewer support hours.

NEW SECTION

WAC 388-828-9350 Are there conditions when DDD will authorize additional hours to your monthly employment service hours? DDD may authorize the use of add-on hours in addition to your monthly employment service hours when your employment support plan identifies a need for additional service hours related to:

- (1) Your work schedule;
- (2) The number of jobs you have;
- (3) The appropriateness of job match;
- (4) Natural supports available to you on the job;
- (5) Health limitations;
- (6) Provider travel time and distance;
- (7) Behavioral or physical needs that may affect the safety of you and others while at work;
- (8) Other factors detailed in your employment plan which indicate a need for add-on hours to help you find or maintain a job.

NEW SECTION

WAC 388-828-9355 How many add-on hours are you eligible to receive? DDD uses the following table to determine the maximum number of add-on hours you are eligible to receive.

If you meet one of the conditions in WAC 388-828-9350 and your employment level is:	You are eligible to receive up to the following amount of add-on hours:
A	0
B	0
C	5
D	7
E	5
F	7
G	12
H	14

NEW SECTION

WAC 388-828-9360 What are short-term employment supports? (1) Short-term employment supports is a service that allows DDD to approve additional service hours in addition to the amount of your employment service base hours (see WAC 388-828-9335) and add-on hours (see WAC 388-828-9345) when:

- (a) You are beginning a new job;
 - (b) There is a planned or unexpected change in your job or job duties;
 - (c) Your current employment is at risk and short-term supports are needed to assist you in maintaining your current job; or
 - (d) You are stuck on your pathway to employment and need individualized technical assistance.
- (2) Short-term employment supports may be authorized for a maximum of three months at a time and may be re-authorized when:
- (a) The circumstances identified in section WAC 388-828-9360(1) continue, evidenced by, receipt of a current employment work plan or review describing the need; and
 - (b) Both your employment provider and county recommend continuing the use of short-term employment supports.

WSR 13-01-080

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 18, 2012, 2:20 p.m., effective January 18, 2013]

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

Purpose: To amend and add specific sections of chapter 388-828 WAC, Division of developmental disabilities (DDD) assessment rules to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services. These changes define the methodology used to determine DDD community access services eligibility and the number of eligible hours each month for community access services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-828-4420.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapter 49, Laws of 2012 (SSB 6384).

Adopted under notice filed as WSR 12-16-104 on August 1, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 4, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 1, Repealed 0.

Date Adopted: December 11, 2012.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-828-4165 How does DDD determine your total raw score for each subscale in the SIS support needs scale? (1) DDD adds the raw scores (WAC 388-828-4160) for each activity assessed in each subscale of the SIS support needs scale to determine your total raw score for that subscale.

(2) The raw score for question number 9 in the home living activities subscale (WAC 388-828-4200) "using currently prescribed equipment or treatment" is not included in the total raw score for the home living activities subscale.

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

WAC 388-828-4420 How does DDD determine your percentile rank and standard score for each subscale in the SIS support needs scale? DDD uses the following table to convert your total raw score for each subscale into a percentile ranking:

If your raw score for the following SIS subscale is:							
Home Living	Community Living	Lifelong Learning	Employment Support	Health and Safety	Social Activities	Then your percentile rank for the SIS subscale is:	And your standard score for the SIS subscale is:
						>99	<u>20</u>
>88	>94					>99	<u>19</u>
87-88	93-94					>99	<u>18</u>
85-86	91-92			>97		99	<u>17</u>
81-84	88-90	>96	>95	92-97	>97	98	<u>16</u>
77-80	84-87	92-96	91-95	86-91	91-97	95	<u>15</u>
73-76	79-83	86-91	85-90	79-85	84-90	91	<u>14</u>
68-72	74-78	79-85	78-84	72-78	76-83	84	<u>13</u>
62-67	69-73	72-78	70-77	65-71	68-75	75	<u>12</u>
55-61	63-68	64-71	61-69	57-64	58-67	63	<u>11</u>
48-54	56-62	55-63	52-60	49-56	48-57	50	<u>10</u>
40-47	49-55	46-54	42-51	42-48	38-47	37	<u>9</u>
32-39	41-48	36-45	32-41	34-41	28-37	25	<u>8</u>
25-31	33-40	27-35	23-31	27-33	19-27	16	<u>7</u>
18-24	25-32	18-26	15-22	20-26	10-18	9	<u>6</u>
11-17	16-24	9-17	7-14	13-19	3-9	5	<u>5</u>
3-10	6-15	<9	<7	7-12	<3	2	<u>4</u>
<3	<6			1-6		1	<u>3</u>
				<1		<1	<u>2</u>
						<1	<u>1</u>

NEW SECTION

WAC 388-828-4440 How does DDD determine your SIS support needs index percentile ranking? (1) DDD determines your SIS support needs index percentile ranking by adding together the standard scores (WAC 388-828-4420) for the following supports intensity scale assessment subscales:

- (a) Home living activities in WAC 388-828-4200.
- (b) Community living activities in WAC 388-828-4220.
- (c) Lifelong learning activities in WAC 388-828-4240.
- (d) Employment activities in WAC 388-828-4260.
- (e) Health and safety activities in WAC 388-828-4280.
- (f) Social activities in WAC 388-828-4300.

(2) Your standard scores for the above scales are added together to determine the sum of the standard scores.

(3) The supplemental protection and advocacy activities scale, and the exceptional medical and behavioral supports scales are not used in determining your support needs index percentile ranking.

(4) The sum of the standard scores is converted to your support needs index percentile ranking using the following table:

If the sum of the standard scores is:	Your support needs index percentile is:
≥91	>99

If the sum of the standard scores is:	Your support needs index percentile is:
90	99
89	99
88	99
87	98
86	98
85	97
84	97
83	96
82	95
81	95
80	94
79	93
78	92
77	91
76	89
75	87
74	86
73	84
72	82

If the sum of the standard scores is:	Your support needs index percentile is:
71	81
70	77
69	75
68	73
67	70
66	68
65	65
64	63
63	58
62	55
61	53
60	50
59	47
58	45
57	39
56	37
55	35
54	32
53	30
52	27
51	25
50	23
49	19
48	18
47	16
46	14
45	13
44	13
43	9
42	8
41	7
40	6
39	5
38	5
37	4
36	3
35	3
34	2
33	2
32	1
31	1
30	1
≤29	<1

NEW SECTION

WAC 388-828-9300 What is the DDD community access acuity scale? The DDD community access acuity scale is an algorithm DDD uses to determine the number of support hours you may receive when you are approved for community access services.

NEW SECTION

WAC 388-828-9310 How does DDD determine the number of hours you may receive each month for community access services? (1) The number of hours of community access services you may receive each month is based on your community access service level.

(2) DDD determines your community access service level based on your SIS support needs index percentile ranking (WAC 388-828-4440) as detailed in the following table:

If your SIS support needs index percentile ranking according to WAC 388-828-4440 is:	Your community access service level is:	The number of hours you may receive for community access services each month is:
0 - 9th percentile	A	Up to 3 hours
10th - 19th percentile	B	Up to 6 hours
20th - 29th percentile	C	Up to 9 hours
30th - 44th percentile	D	Up to 12 hours
45th - 59th percentile	E	Up to 15 hours
60th - 74th percentile	F	Up to 18 hours
75th - 100th percentile	G	Up to 20 hours