

**WSR 16-09-035**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Developmental Disabilities Administration)  
 [Filed April 14, 2016, 9:39 a.m.]

Supplemental Notice to WSR 15-09-024.

Preproposal statement of inquiry was filed as WSR 14-12-093, 14-22-082, 14-22-083, and 15-12-060.

Title of Rule and Other Identifying Information: The department is proposing to amend chapters 388-823, 388-825, 388-828, 388-831, and 388-845 WAC, and create new sections in chapter 388-845 WAC. The proposed rule changes are related to the individual and family services (IFS) waiver, the community first choice (CFC) program, the client's choice for place of assessment, and overnight planned respite services.

Existing Sections Being Amended: WAC 388-823-0010 Definitions, 388-825-020 Definitions, 388-825-057 Am I eligible to receive paid services from DDD?, 388-825-0571 What services am I eligible to receive from DDD if I am under the age of eighteen, have been determined to meet DDD eligibility requirements, and I am in a dependency guardianship or foster care with children's administration?, 388-825-059 How will I know which paid services I will receive?, 388-825-068 What medicaid state plan services may DDD authorize?, 388-825-083 Is there a comprehensive list of waiver and state-only DDD services?, 388-825-305 What service providers are governed by the qualifications in these rules?, 388-825-310 What are the qualifications for providers?, 388-825-325 What are required skills and abilities for individuals and agencies contracted to provide respite care, personal care services through the medicaid personal care program or the DDD HCBS Basic, Basic Plus, CIIBS, or Core waivers, or attendant care services?, 388-825-330 What is required for agencies to provide care in the home of a person with developmental disabilities?, 388-825-355 Are there any educational requirements for individuals providing respite care, attendant care, or personal care services?, 388-828-1020 What definitions apply to this chapter?, 388-828-1060 What is the purpose of the DDD assessment?, 388-828-1500 When does DDD conduct a reassessment?, 388-828-1520 Where is the DDD assessment and reassessment administered?, 388-828-1540 Who participates in your DDD assessment?, 388-828-8000 What is the purpose of the individual support plan (ISP) module?, 388-831-0065 What if I refuse to participate in the risk assessment?, 388-831-0160 What services may I receive if I refuse placement in the community protection program?, 388-845-0001 Definitions, 388-845-0015 What HCBS waivers are provided by the developmental disabilities administration (DDA)?, 388-845-0020 When were the HCBS waivers effective?, 388-845-0030 Do I meet criteria for HCBS waiver-funded services?, 388-845-0041 What is DDA's responsibility to provide my services under the DDA HCBS waivers administered by DDA?, 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled?, 388-845-0052 What is the process if I am already on a DDA HCBS waiver and request enrollment onto a different waiver DDA HCBS?, 388-845-0055 How do I remain eligible for the

waiver?, 388-845-0060 Can my waiver enrollment be terminated?, 388-845-0100 What determines which waiver I am assigned to?, 388-845-0105 What criteria determine assignment to the community protection waiver?, 388-845-0110 Are there limitations to the waiver services I can receive?, 388-845-0111 Are there limitations regarding who can provide services?, 388-845-0115 Does my waiver eligibility limit my access to DDA nonwaiver services?, 388-845-0200 What waiver services are available to me?, 388-845-0210 Basic Plus waiver services, 388-845-0215 Core waiver services, 388-845-0220 Community protection waiver services, 388-845-0225 Children's intensive in-home behavioral support (CIIBS) waiver services, 388-845-0415 What is assistive technology?, 388-845-0420 Who is a qualified provider of assistive technology?, 388-845-0425 Are there limits to the assistive technology I can receive?, 388-845-0505 Who is a qualified provider of behavior support and consultation?, 388-845-0510 Are there limits to the behavior support and consultation I can receive?, 388-845-0820 Are there limits to my use of emergency assistance?, 388-845-0900 What are environmental accessibility adaptations?, 388-845-0905 Who is a qualified provider for building these environmental accessibility adaptations?, 388-845-0910 What limitations apply to environmental accessibility adaptations?, 388-845-1015 Are there limits to the extended state plan services I can receive?, 388-845-1040 Are there limits to the individualized technical assistance services I can receive?, 388-845-1110 What are the limits of behavioral health crisis diversion bed services?, 388-845-1150 What are behavioral health stabilization services?, 388-845-1160 Are there limitations to the behavioral health stabilization services that I can receive?, 388-845-1170 What is nurse delegation?, 388-845-1180 Are there limitations to the nurse delegation services that I receive?, 388-845-1300 What are personal care services?, 388-845-1310 Are there limits to the personal care services I can receive?, 388-845-1410 Are there limits to the prevocational services I can receive?, 388-845-1600 What is respite care?, 388-845-1605 Who is eligible to receive respite care?, 388-845-1607 Can someone who lives with me be my respite provider?, 388-845-1620 Are there limits to the respite care I can receive?, 388-845-1660 Are there limitations to the sexual deviancy evaluations I can receive?, 388-845-1700 What is skilled nursing?, 388-845-1710 Are there limitations to the skilled nursing services I can receive?, 388-845-1800 What are specialized medical equipment and supplies?, 388-845-1810 Are there limitations to my receipt of specialized medical equipment and supplies?, 388-845-1840 What is specialized nutrition and specialized clothing?, 388-845-1845 Who are qualified providers of specialized nutrition and specialized clothing?, 388-845-1850 Are there limitations to my receipt of specialized nutrition and specialized clothing?, 388-845-1910 Are there limitations to the specialized psychiatric services I can receive?, 388-845-2000 What is staff/family consultation and training?, 388-845-2005 Who is a qualified provider of staff/family consultation and training?, 388-845-2010 Are there limitations to the staff/family consultation and training I can receive?, 388-845-2160 What is therapeutic equipment and supplies?, 388-845-2170 Are there limitations on my receipt of therapeutic equipment and supplies?, 388-845-2210 Are there limitations to the

transportation services I can receive?, 388-845-2260 What are vehicle modifications?, 388-845-2270 Are there limitations to my receipt of vehicle modification services?, 388-845-3000 What is the process for determining the services I need?, 388-845-3055 What is a waiver individual support plan (ISP)?, 388-845-3056 What if I need assistance to understand my individual support plan?, 388-845-3060 When is my individual support plan effective?, 388-845-3061 Can a change in my individual support plan be effective before I sign it?, 388-845-3062 Who is required to sign or give verbal consent to the individual support plan?, 388-845-3063 Can my individual support plan be effective before the end of the month?, 388-845-3065 How long is my plan effective?, 388-845-3070 What happens if I do not sign or verbally consent to my individual support plan (ISP)?, 388-845-3075 What if my needs change?, and 388-845-3085 What if my needs exceed what can be provided under the IFS, CIIBS, Core or Community Protection waiver?

New Sections Being Added: WAC 388-845-0230 What is the scope of services for the individual and family services waiver?, 388-845-0650 What are community engagement services?, 388-845-0655 Who is a qualified provider of community engagement service?, 388-845-0660 Are there limitations to the community engagement services I can receive?, 388-845-1190 What is peer mentoring?, 388-845-1191 Who are qualified providers of peer mentoring?, 388-845-1192 What limitations are there for peer mentoring?, 388-845-1195 What is person-centered planning facilitation?, 388-845-1196 Who are qualified providers of person-centered planning facilitation?, 388-845-1197 What limitations are there for person-centered planning facilitation?, 388-845-1855 What is specialized clothing?, 388-845-1860 Who are qualified providers of specialized clothing?, 388-845-1865 Are there limitations to my receipt of specialized clothing?, 388-845-2130 What are supported parenting services?, 388-845-2135 Who are qualified providers of supported parenting services?, and 388-845-2140 Are there any limitations on my receipt of supported parenting services?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 21, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by June 4, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes Related to the IFS Waiver: Once SSB 6387 of the 63rd legislature, 2014 regular session, was passed, DDA worked on the new required IFS waiver while at the same time identifying and programming the necessary enhancements to the statewide

CARE assessment tool to incorporate the waiver into our daily work process. Our intent was to be ready to file the emergency rules and implement the system changes to CARE upon the waiver approval date given by CMS. Once CMS approved our IFS waiver, we filed the CR-103E to make those changes to rule effective by emergency rules on June 1, 2015. This was a short period of time from when CMS approved the waiver to when the waiver would be effective. Although we had also filed the CR-102 and held the public hearing, we were unable to make those rules permanent through the regular rule-making process before additional changes were needed in some sections of chapter 388-845 WAC due to the CMS implementation date for the new CFC program.

Changes Related to the CFC Program: ESHB 2746 requires DSHS to refinance personal care services and establish a 1915(k) CFC program per §1915(k) of the Social Security Act. To that end, DSHS worked to develop a state plan amendment for implementation after CMS approval. This new program also required modifications to our statewide CARE assessment tool and updates to rules, some of which were the same sections in chapter 388-845 WAC that were effective via emergency rules but had not yet completed the permanent rule-making process.

Changes Related to Where the DDA Assessment and Reassessment is Administered: These changes more closely align our rules with 42 C.F.R. 441.540 (a)(3) to allow the individual to select a time and location for their convenience for assessments.

Changes Related to the Definition of Overnight Planned Respite Services: Rule changes to implement overnight planned respite services, as approved in ESSB 6052 S.L. of the 64th legislative 2015 3rd sp. sess., are being implemented by a different emergency rule filing. However, we are including the definition changes in this filing.

Reasons Supporting Proposal: The proposed changes will permit DSHS to continue the new IFS waiver, the CFC program, and the client's choice for the place of assessment. In addition, another change includes the definition of overnight planned respite services.

Statutory Authority for Adoption: RCW 71A.12.030.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ann Whitehall, DDA, P.O. Box 45310, Olympia, 98504-5310, (360) 725-3445.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do no impact small businesses or nonprofits, they only impact DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are exempt under RCW 34.05.328 (5)(b)(vii) and relate only to client medical or financial eligibility.

April 12, 2016  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-0010 Definitions.** The following definitions apply to this chapter:

"ABAS-II" means adaptive behavior assessment system-second edition, which is a comprehensive, norm-referenced assessment of adaptive behavior and skills of individuals from birth through age 89.

"CAS" means the DAS-Naglieri cognitive assessment system, a clinical instrument for assessing intelligence based on a battery of cognitive tasks. The test is used for children ages five through seventeen years eleven months.

"Client" means a person with a developmental disability as defined in chapter 388-823 WAC who is currently eligible and active with the developmental disabilities administration (DDA).

"Community first choice (CFC) is a medicaid state plan program defined in chapter 388-106 WAC.

"C-TONI" means the comprehensive test of nonverbal intelligence, a battery of six subtests, designed to measure different aspects of nonverbal intellectual abilities from ages six to eighteen years eleven months.

"DAS" means differential ability scales, which is a cognitive abilities battery for children and adolescents at least age two years, six months but under age eighteen.

"DDA" means the developmental disabilities administration, an administration within department of social and health services.

"Department" means the department of social and health services.

"Documentation" means written information that provides support for certain claims, such as diagnoses, test scores, or residency for the purpose of establishing DDA eligibility.

"DSM-IV-TR" means the diagnostic and statistical manual of mental disorders, fourth edition, text revision.

"DSM-5" means the diagnostic and statistical manual of mental disorders, fifth edition.

"Eligible" means that DDA has determined that you have a condition that meets all of the requirements for a developmental disability as set forth in this chapter.

"ESIT" means early support for infants and toddlers, a program administered by the department of early learning.

"Expiration date" means a specific date that your eligibility as a client of DDA and all services paid by DDA will stop.

"FSIQ" means the full scale intelligence quotient which is a broad measure of intelligence achieved through one of the standardized intelligence tests included in these rules. Any standard error of measurement value will not be taken into consideration when making a determination for DDA eligibility.

"Functional limitation" means a reduced ability or lack of ability to perform an action or activity in the manner or within the range considered to be normal.

"ICAP" means the inventory for client and agency planning. This is a standardized assessment of functional ability. The adaptive behavior section of the ICAP assesses daily living skills and the applicant awareness of when to perform these skills. The goal is to get a snapshot of his/her ability.

"K-ABC" means Kaufman assessment battery for children, which is a clinical instrument for assessing intellectual development. It is an individually administered test of intelligence and achievement for children at least age two years, six months but under age twelve years, six months. The K-ABC comprises four global scales, each yielding standard scores. A special nonverbal scale is provided for children at least age four years but under age twelve years, six months.

"Leiter-R" means Leiter international performance scale - revised, which is an untimed, individually administered test of nonverbal cognitive ability for individuals at least age two years but under age twenty-one years.

"Medicaid personal care (MPC)" ((means)) is a medicaid ((personal care and is the provision of medically necessary personal care tasks)) state plan program as defined in chapter 388-106 WAC.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Nonverbal" means that you do not possess sufficient verbal skills to complete a standard intellectual test.

"NSA" means necessary supplemental accommodations, which are services provided to you if you have a mental, neurological, physical, or sensory impairment or other problems that prevent you from getting program benefits in the same way that an unimpaired person would get them.

"Review" means DDA must determine that a current client of DDA still meets all of the requirements for a developmental disability as set forth in this chapter.

"RHC" means a residential habilitation center operated by the DDA.

"SIB-R" means the scale of independent behavior-revised which is an adaptive behavior assessment derived from quality standardization and norming. It can be administered as a questionnaire or as a carefully structured interview, with special materials to aid the interview process.

"SOLA" means a state operated living alternative residential service for adults operated by DDA.

"Stanford-Binet" is a battery of fifteen subtests measuring intelligence for individuals at least age two years but under age twenty-three years.

"Termination" means an action taken by DDA that stops your DDA eligibility and services paid by DDA. If your DDA eligibility is terminated your DDA authorized services will also be terminated. If you remain eligible for community first choice (CFC) or medicaid personal care (MPC) and you are under the age of eighteen DDA will continue to authorize this service. If you are eighteen or older (~~medicaid personal care~~) CFC or MPC services will be authorized by the aging and long-term support administration.

"VABS" means Vineland adaptive behavior scales, which is an assessment to measure adaptive behavior in children from birth but under age eighteen years, nine months and in adults with low functioning in four separate domains:

Communication, daily living skills, socialization, and motor skills.

"Wechsler" means the Wechsler intelligence scale, which is an individually administered measure of an individual's capacity for intelligent behavior. There are three Wechsler intelligence scales, dependent upon the age of the individual:

- Wechsler preschool and primary scale of intelligence for children at least age three years but under age seven years;
- Wechsler intelligence scale for children at least age six years but under age sixteen years; and
- Wechsler adult intelligence scale for individuals at least age sixteen years but under age seventy-four years.

"WJ III(r)" means the Woodcock-Johnson(r) III, a test which is designed to provide a co-normed set of tests for measuring general intellectual ability, specific cognitive abilities, scholastic aptitude, oral language, and academic achievement. The WJ III(r) is used for ages two and up.

AMENDATORY SECTION (Amending WSR 12-22-037, filed 11/1/12, effective 12/2/12)

**WAC 388-825-020 Definitions. "Authorization"** means ~~((DDD))~~ DDA approval of funding for a service as identified in the individual support plan or evidence of payment for a service.

**"Assistant Secretary"** means the assistant secretary of the developmental disabilities administration.

**"Client or person"** means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the ~~((division))~~ administration under chapter 71A.16 RCW.

**"Community first choice (CFC)"** is a medicaid state plan program defined in chapter 388-106 WAC.

**"Department"** means the department of social and health services of the state of Washington.

**"DDA"** means the developmental disabilities administration, an administration within the department of social and health services.

~~((("Director" means the director of the division of developmental disabilities.~~

~~((("Division or DDD" means the division of developmental disabilities within the aging and disability services administration of the department of social and health services.))~~

**"Enhanced respite services"** means respite care for ~~((DDD))~~ DDA enrolled children and youth, who meet specific criteria, in a ~~((DDD))~~ DDA contracted and licensed staffed residential setting.

**"Family"** means relatives who live in the same home with the eligible client. Relatives include spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

**"ICF/IID"** means a facility certified as an intermediate care facility for individuals with ~~((intellectually disabled))~~ intellectual disabilities by Title XIX to provide diagnosis, treatment and rehabilitation services to the individuals with intellectual disabilities or individuals with related conditions.

**"ICF/IID eligible"** for admission to an ICF/IID means a person is determined by ~~((DDD))~~ DDA as needing active

treatment as defined in C.F.R. 483.440. Active treatment requires:

- (1) Twenty-four hour supervision; and
- (2) Continuous training and physical assistance in order to function on a daily basis due to deficits in the following areas: Toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication.

**"Individual support plan (ISP)"** is a document that authorizes and identifies the ~~((DDD))~~ DDA paid services to meet a client's assessed needs.

**"Medicaid personal care (MPC)"** is ~~((the provision of medically necessary personal care tasks as))~~ a medicaid state plan program defined in chapter 388-106 WAC.

**"Overnight planned respite services"** means services intended to provide short-term intermittent relief for persons who live with the DDA client as the primary care provider and are either (1) a family member (paid or unpaid); or (2) a nonfamily member who is not paid. These services provide person-centered support, care and planned activities for the client in the community.

**"Residential habilitation center" or "RHC"** means a state-operated facility certified to provide ICF/IID and/or nursing facility level of care for persons with developmental disabilities.

**"Residential programs"** means provision of support for persons in community living situations. Residential programs include ~~((DDD))~~ DDA certified community residential services and support, both facility-based such as licensed group homes, and nonfacility based, such as supported living and state-operated living alternatives (SOLA). Other residential programs include alternative living (as described in chapter 388-829A WAC, companion homes (as described in chapter 388-829C WAC), adult family homes, adult residential care services, children's foster homes, group care and staffed residential homes.

**"Respite care"** means short-term intermittent care for ~~((DDD))~~ DDA clients in order to provide relief for persons who normally provide that care.

**"Secretary"** means the secretary of the department of social and health services or the secretary's designee.

**"State supplementary payment (SSP)"** is the state paid cash assistance program for certain ~~((DDD))~~ DDA eligible SSI clients.

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

**WAC 388-825-057 Am I eligible to receive paid services from ~~((DDD))~~ DDA?** You may be eligible to receive paid services from ~~((DDD))~~ DDA if you are currently an eligible client of ~~((DDD))~~ DDA per chapter 388-823 WAC and:

(1) You are under the age of three and meet the eligibility requirements contained in WAC 388-823-0800 through 388-823-0850; or

(2) You are a recipient of Washington ~~((state medicaid))~~ apple health under the categorically needy program (CNP) or the alternative benefit plan and meet the eligibility requirements contained in ~~((chapters 388-474, 388-475 and 388-513))~~ chapter 182-513 WAC; or

(3) You are enrolled in a ~~((DD))~~ DDA home and community based services waiver and meet the eligibility requirements contained in chapter 388-845 WAC; or

(4) You have been enrolled in the individual and family services program and meet the eligibility requirements contained in chapter 388-832 WAC; or

(5) You have been approved to receive a state-only funded service.

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

**WAC 388-825-0571 What services am I eligible to receive from ~~((DD))~~ DDA if I am under the age of eighteen, have been determined to meet ~~((DD))~~ DDA eligibility requirements, and I am in a dependency guardianship or foster care with children's administration?** Your services from ~~((DD))~~ DDA are limited to CFC or medicaid personal care services and related case management if you meet the programmatic eligibility for ~~((medicaid personal care))~~ those programs defined in chapter 388-106 and 388-71 WAC ~~((governing medicaid personal care (MPC) using the current department approved assessment form, comprehensive assessment reporting evaluation (CARE);))~~ and:

(1) You are under the age of eighteen;

(2) You have been determined to meet ~~((DD))~~ DDA eligibility requirements; and

(3) You are in a dependency guardianship or foster care with children's administration.

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

**WAC 388-825-059 How will I know which paid services I will receive?** Your person-centered service plan/individual support plan (ISP) identifies the services and the amount of service you can receive.

AMENDATORY SECTION (Amending WSR 12-22-037, filed 11/1/12, effective 12/2/12)

**WAC 388-825-068 What medicaid state plan services can ~~((DD))~~ DDA authorize?** ~~((DD))~~ DDA may authorize the following medicaid state plan services if you meet the eligibility criteria for the program:

(1) Community first choice, per chapter 388-106 WAC;

(2) Medicaid personal care, per chapter 388-106 WAC;

~~((2))~~ (3) Private duty nursing for adults age eighteen and older; per chapter 388-106 WAC;

~~((3))~~ (4) Private duty nursing for children under the age of eighteen, per WAC 182-551-3000;

~~((4))~~ Adult day health for adults, per chapter 388-106 WAC; and)

(5) ICF/IID services, per chapters 388-835 and 388-837 WAC;

(6) Nursing facility services at residential habilitation centers (RHC) per chapter 388-97 WAC.

AMENDATORY SECTION (Amending WSR 10-02-101, filed 1/6/10, effective 2/6/10)

**WAC 388-825-083 Is there a comprehensive list of waiver and state-only ~~((DD))~~ DDA services?** For medicaid state plan services authorized by ~~((DD))~~ DDA, see WAC 388-825-068. The following is a list of waiver and state-only services that ~~((DD))~~ DDA can authorize and those services that can be either a waiver or a state-only service:

(1) **Waiver personal care services that are not available with state-only funds include:**

- (a) In-home services;
- (b) Adult family home; and
- (c) Adult residential care.

(2) **Waiver services that can be funded as state-only services:**

(a) Assistive technology;

(b) Behavior management and consultation;

~~((b))~~ (c) Community engagement;

(d) Community guide;

(e) Community transition;

~~((e))~~ (f) Environmental accessibility adaptations;

~~((f))~~ (g) Medical equipment and supplies;

~~((e))~~ (h) Occupational therapy;

~~((f))~~ (i) Peer mentoring;

(j) Person-centered planning facilitation;

(k) Physical therapy;

~~((g))~~ (l) Respite care;

~~((h))~~ (m) Sexual deviancy evaluation;

~~((i))~~ (n) Skilled nursing;

~~((j))~~ (o) Specialized clothing;

(p) Specialized nutrition;

(q) Specialized medical equipment or supplies;

~~((k))~~ (r) Specialized psychiatric services;

~~((h))~~ (s) Speech, hearing and language therapy;

~~((m))~~ (t) Staff/family consultation and training;

~~((n))~~ (u) Supported parenting services;

(v) Therapeutic equipment and supplies;

(w) Transportation/mileage;

~~((e))~~ (x) Vehicle modification;

(y) Residential habilitation services (RHS), including:

(i) Alternative living;

(ii) Companion homes;

(iii) Supported living;

(iv) Group home;

(v) Child foster care;

(vi) Child group care;

(vii) Staffed residential; and

(viii) State operated living alternative (SOLA);

~~((p))~~ (z) Employment/day programs, including:

(i) Community access;

(ii) ~~((Community guide;))~~

~~((iii))~~ ~~((Person-to-person;))~~

~~((iv))~~ Prevocational services; and

~~((v))~~ (iii) Supported employment;

~~((q))~~ (aa) ~~((HEIP;))~~ County programs, including child development services;

~~((r))~~ (bb) Behavioral ~~((Mental))~~ health stabilization services, including:

(i) Behavior ~~((management))~~ support and consultation;

(ii) ~~((Mental health crisis))~~ Behavioral health crisis diversion bed services; and

(iii) ~~((Skilled nursing; and  
(s)))~~ Specialized psychiatric services.

(3) **State-only services that are not available as a waiver service:**

(a) Adult day care;

~~((b) Architectural and vehicle modification;))~~

~~((e))~~ (b) Attendant care;

~~((d))~~ (c) Child care for foster children;

~~((e))~~ (d) Chore services;

~~((f))~~ (e) Community services grant;

~~((g))~~ (f) Individual and family assistance;

~~((h))~~ (g) Information/education;

~~((i))~~ (h) Medical and dental services;

~~((j))~~ (i) Medical insurance copays and costs exceeding other coverage;

~~((k))~~ (j) Parent and sibling education;

~~((l))~~ (k) Parent training and counseling;

~~((m))~~ (l) Psychological counseling;

~~((n))~~ (m) Recreational opportunities;

~~((o))~~ (n) State supplementary payments;

~~((p) Specialized clothing;~~

~~(q) Specialized nutrition;~~

~~((r))~~ (o) Training of the client;

~~((s))~~ (p) Transportation - cost of escort service or travel time; ~~((and))~~

~~((t))~~ (q) Reimbursement to families for the purchase of approved items or services~~((:)); and~~

(r) Overnight planned respite services.

AMENDATORY SECTION (Amending WSR 07-23-062, filed 11/16/07, effective 12/17/07)

**WAC 388-825-305 What service providers are governed by the qualifications in these rules?** These rules govern individuals and agencies contracted with to provide:

(1) Respite care services;

(2) Personal care services through the ~~((medicaid personal care program or DDD HCBS Basic,))~~ Basic Plus~~((, or CORE))~~ waiver~~((s)); ((or))~~

(3) Community first choice services;

(4) Medicaid personal care; or

(5) Attendant care services.

AMENDATORY SECTION (Amending WSR 05-17-135, filed 8/19/05, effective 9/19/05)

**WAC 388-825-310 What are the qualifications for respite care, community first choice, medicaid personal care, and attendant care service providers?** (1) ~~((Individuals and agencies providing medicaid personal care (chapters 388-71 and 388-106 WAC) and DDD HCBS waiver personal care (chapter 388-845 WAC)))~~ The providers of services in WAC 388-825-305 must meet the qualifications and training requirements in ~~((WAC))~~ chapter 388-71~~((-0500 through 388-71-0500))~~ WAC.

(2) ~~((Individuals and agencies providing nonwaiver DDD home and community-based services (HCBS) in the client's residence or the provider's residence or other setting must meet the requirements in WAC 388-825-300 through~~

~~388-825-400))~~ Individuals and agencies providing state only individual and family services must meet the provider qualifications in chapter 388-832 WAC for the specific service.

(3) Individuals and agencies providing HCBS waiver services must meet the provider qualifications in chapter 388-845 WAC for the specific service. In addition to meeting the provider qualifications in chapter 388-845 WAC, respite care providers must meet requirements in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 10-02-101, filed 1/6/10, effective 2/6/10)

**WAC 388-825-325 What are required skills and abilities for individuals and agencies contracted to provide community first choice services, medicaid personal care, respite care, ~~((personal care services through the medicaid personal care program or the DDD HCBS Basic, Basic Plus, CHBS, or Core waivers,))~~ or attendant care services?** (1) As a provider of community first choice services, medicaid personal care, respite care, ~~((personal care services through the medicaid personal care program or the DDD HCBS Basic, Basic Plus, CHBS, or Core waivers,))~~ or attendant care services, you must be able to:

(a) Adequately maintain records of services performed and payments received;

(b) Read and understand the person's service plan. Translation services may be used if needed;

(c) Be kind and caring to the DSHS client for whom services are authorized;

(d) Identify problem situations and take the necessary action;

(e) Respond to emergencies without direct supervision;

(f) Understand the way your employer wants you to do things and carry out instructions;

(g) Work independently;

(h) Be dependable and responsible;

(i) Know when and how to contact the client's representative and the client's case resource manager;

(j) Participate in any quality assurance reviews required by DSHS;

(2) If you are working with an adult client of DSHS as a provider of attendant care, you must also:

(a) Be knowledgeable about the person's preferences regarding the care provided;

(b) Know the resources in the community the person prefers to use and enable the person to use them;

(c) Know who the person's friends are and enable the person to see those friends; and

(d) Enable the person to keep in touch with his/her family as preferred by the person.

AMENDATORY SECTION (Amending WSR 10-02-101, filed 1/6/10, effective 2/6/10)

**WAC 388-825-330 What is required for agencies ~~((wanting))~~ to provide care in the home of a person with developmental disabilities?** (1) Agencies providing community first choice services, medicaid personal care, or respite services must be licensed as a home care agency or a

home health agency through the department of health per chapter 246-335 WAC.

(2) If a residential agency certified per chapter 388-101 WAC (~~wishes~~) wants to provide medicaid personal care or respite care in the client's home(~~er~~) the agency must have a home care agency (~~certification~~) or (~~an~~) home health license.

(3) If a residential agency certified per chapter 388-101 WAC only wants to provide skills acquisition under the community first choice program the agency must be contracted with the department to provide the service.

AMENDATORY SECTION (Amending WSR 07-23-062, filed 11/16/07, effective 12/17/07)

**WAC 388-825-355 (~~Are there any educational~~) What are the training requirements for individuals providing respite care, attendant care, community first choice, or personal care services?** (~~(+) If you are an~~) The training and certification requirements for individuals who (~~providing~~) provide personal care or community first choice services (~~for adults, you must meet the training requirements~~) are listed in chapter 388-71 WAC (~~388-71-05665 through 388-71-05909~~.)

(2) ~~If you provide personal care for children, or provide respite care, there is no required training but DDD retains the authority to require training of any provider).~~

**Reviser's note:** The typographical 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 WSR 07-10-029, filed 4/23/07, effective 6/1/07)

**WAC 388-828-1020 What definitions apply to this chapter?** The following definitions apply to this chapter:

"AAIDD" means the American Association on Intellectual and Developmental Disabilities.

"Acuity Scale" refers to an assessment tool that is intended to provide a framework for documenting important assessment elements and for standardizing the key questions that should be asked as part of a professional assessment. The design helps provide consistency from client to client by minimizing subjective bias and assists in promoting objective assessment of a person's support needs.

~~("ADSA" means the aging and disability services administration (ADSA), an administration within the department of social and health services, which includes the following divisions: Home and community services, residential care services, management services and division of developmental disabilities:~~

~~"ADSA contracted provider" means an individual or agency who is licensed, certified, and/or contracted by ADSA to provide services to DDD clients.)~~

"Adult family home" or "AFH" means a residential home in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services (see RCW 70.12.-010).

"Agency provider" means a department licensed and/or (~~ADSA~~) certified business who is contracted with (~~ADSA~~) the department or a county to provide (~~DDD~~) DDA services (e.g., personal care, respite care, residential services, therapy, nursing, employment, etc.).

"Algorithm" means a numerical formula used by the (~~DDD~~) DDA assessment for one or more of the following:

(1) Calculation of assessed information to identify a client's relative level of need;

(2) Determination regarding which assessment modules a client receives as part of his/her (~~DDD~~) DDA assessment; and

(3) Assignment of a service level to support a client's assessed need.

"Authorization" means (~~DDD~~) DDA approval of funding for a service as identified in the individual support plan or evidence of payment for a service.

"CARE" refers to the comprehensive assessment reporting evaluation assessment per chapter 388-106 WAC.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the (~~division~~) administration under chapter 71A.16 RCW.

"Collateral contact" means a person or agency that is involved in the client's life (e.g., legal guardian, family member, care provider, friend, etc.).

"Companion home" is a (~~DDD~~) DDA contracted residential service that provides twenty-four hour training, support, and supervision, to one adult living with a paid provider.

~~("DDD" means the division of developmental disabilities, a division with the aging and disability services administration (ADSA), department of social and health services (DSHS):)~~

"Contracted provider" means an individual or agency who is one or more of the following: licensed, certified, or contracted by the department to provide services to DDA clients.

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

"Group home" or "GH" means a (~~ADSA~~) licensed adult family home or (~~boarding home~~) assisted living facility contracted and certified (~~by ADSA~~) to provide residential services and support to adults with developmental disabilities.

"ICF/((MR))IID" means a facility certified as an intermediate care facility for (~~the mentally retarded~~) individuals with intellectual disabilities to provide habilitation services to (~~DDD~~) DDA clients.

"ICF/((MR))IID level of care" is a standardized assessment of a client's need for ICF/((MR))IID level of care per 42 C.F.R. 440 and 42 C.F.R. 483. In addition, ICF/((MR))IID level of care refers to one of the standards used by (~~DDD~~) DDA to determine whether a client meets minimum eligibility criteria for one of the (~~DDD~~) DDA HCBS waivers.

"Person-centered service plan/individual support plan" or "ISP" is a document that (~~authorizes and~~) identifies (~~the DDD paid services to meet a client's assessed needs~~) your goals and assessed health and welfare needs. Your person-centered service plan/individual support plan also indicates

the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Legal guardian" means a person/agency, appointed by a court, who is authorized to make some or all decisions for a person determined by the court to be incapacitated. In the absence of court intervention, parents remain the legal guardians for their child until the child reaches the age of eighteen.

"LOC score" means a level of care score for answers to questions in the support needs assessment for children that are used in determining if a client meets eligibility requirements for ICF/((MR))IID level of care.

"Modules" refers to three sections of the ((DDD)) DDA assessment. They are: The support assessment, the service level assessment, and the person-centered service plan/individual support plan (ISP).

"Panel" refers to the visual user-interface in the ((DDD)) DDA assessment computer application where assessment questions are typically organized by topic and you and your respondents' answers are recorded.

"Plan of care" or "POC" refers to the paper-based assessment and service plan for clients receiving services on one of the ((DDD)) DDA HCBS waivers prior to June 1, 2007.

"Raw score" means the numerical value when adding a person's "Frequency of support," "Daily support time," and "Type of support" scores for each activity in the support needs and supplemental protection and advocacy scales of the supports intensity scale (SIS) assessment.

"Residential habilitation center" or "RHC" is a state-operated facility certified to provide ICF/((MR))IID and/or nursing facility level of care for persons with developmental disabilities per chapter 71A.20 RCW.

"Respondent" means the adult client and/or another person familiar with the client who participates in the client's ((DDD)) DDA assessment by answering questions and providing information. Respondents may include ((ADSA)) DDA contracted providers.

"SIS" means the supports intensity scale developed by the American Association of Intellectual and Developmental Disabilities (AAIDD). The SIS is in the support assessment module of the ((DDD)) DDA assessment.

"Service provider" refers to ((an ADSA)) a department contracted agency or person who provides services to ((DDD)) DDA clients. Also refers to state operated living alternative programs (SOLA).

"SOLA" means a state operated living alternative program for adults that is operated by ((DDD)) DDA.

"State supplementary payment" or "SSP" is the state paid cash assistance program for certain ((DDD)) DDA eligible Social Security income clients per chapter 388-827 WAC.

"Supported living" or "SL" refers to residential services provided by ((ADSA)) DDA certified residential agencies to clients living in homes that are owned, rented, or leased by the clients or their legal representatives.

"Waiver personal care" means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) due to your functional limitations per chapter 388-106 WAC to individuals who are authorized to receive services available in the ((Basic)) Basic Plus(, and Core) waiver((s)) per chapter 388-845 WAC.

"Waiver respite care" means short-term intermittent relief for persons normally providing care to individuals who are authorized to receive services available in the individual and family services (IFS), children's intensive in-home behavioral support (CIIBS) ((Basic)), Basic Plus, and Core waivers per chapter 388-845 WAC.

"You/Your" means the client.

AMENDATORY SECTION (Amending WSR 08-12-037, filed 5/30/08, effective 7/1/08)

**WAC 388-828-1060 What is the purpose of the ((DDD)) DDA assessment?** The purpose of the ((DDD)) DDA assessment is to provide a comprehensive assessment process that:

(1) Collects a common set of assessment information for reporting purposes to the legislature and the department.

(2) Promotes consistency in evaluating client support needs for purposes of planning, budgeting, and resource management.

(3) Identifies a level of service and/or number of hours that is used to support the assessed needs of clients who have been authorized by ((DDD)) DDA to receive:

(a) Medicaid personal care services or ((DDD HCBS waiver personal care)) community first choice services per chapter 388-106 WAC;

(b) Waiver respite care services per chapter 388-845 WAC;

(c) Services in the voluntary placement program (VPP) per chapter 388-826 WAC;

(d) Supported living residential services per chapter 388-101 WAC;

(e) Group home residential services per chapter 388-101 WAC;

(f) Group training home residential services per chapter 388-101 WAC;

(g) Companion home residential services per chapter 388-829C WAC; ((e))

(h) Individual and family services per chapter 388-832 WAC;

(i) Individual and family services waiver per chapter 388-845 WAC;

(j) State supplementary program per chapter 388-827 WAC.

(4) Records your service requests.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

**WAC 388-828-1500 When does DD((D))A conduct a reassessment?** (1) A reassessment must occur:

((H)) (a) On an annual basis if you are receiving a paid service or SSP; ((e))

((E)) (b) When a significant change is reported that may affect your need for support((E.g., changes in your medical condition, caregiver status, behavior, living situation, employment status.)); or

(c) Before the next ISP date of your current assessment.

(2) DDA will provide you with notice in advance of your next ISP date so you may schedule the assessment at a time that is convenient to you.



AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

**WAC 388-828-1520 Where is the ~~DD~~(~~D~~)~~A~~ assessment and reassessment administered?** ~~((The ~~DDD~~ assessment and reassessment are administered in your place of residence))~~ (1) DDA assessments and reassessments are administered in your home or place of residence or at another location that is convenient to you.

(2) If the DDA assessment is not administered in your home or place of residence and if you receive a DDA paid service in your home, a follow up home visit will be conducted to ensure your person-centered service plan can be implemented in your living environment.

AMENDATORY SECTION (Amending WSR 08-12-037, filed 5/30/08, effective 7/1/08)

**WAC 388-828-1540 Who participates in your ~~(~~DDD~~)~~ DDA assessment?** (1) ((All relevant persons who are involved in your life may participate in your ~~DDD~~ assessment, including your parent(s), legal representative/guardian, advocate(s), and service provider(s)) You choose the people who participate in your assessment and person-centered service planning meeting.

(2) (~~(~~DDD~~)~~) DDA requires that at a minimum: You, one of your respondents, and a (~~(~~DDD~~)~~) DDA employee participate in your (~~(~~DDD~~)~~) DDA assessment interview. In addition:

(a) If you are under the age of eighteen, your parent(s) or legal guardian(s) must participate in your (~~(~~DDD~~)~~) DDA assessment interview.

(b) If you are age eighteen or older, your court appointed legal representative/guardian must be consulted if he/she does not attend your (~~(~~DDD~~)~~) DDA assessment interview.

(c) If you are age eighteen and older and have no legal representative/guardian, (~~(~~DDD~~)~~) DDA will assist you to identify a respondent.

(d) (~~(~~DDD~~)~~) DDA may (~~(require additional respondents to participate in))~~ consult with other people who were not present at your (~~(~~DDD~~)~~) DDA assessment interview, if needed, to obtain complete and accurate information.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

**WAC 388-828-8000 What is the purpose of the person-centered service plan/individual support plan (ISP) module?** The purpose of the person-centered service plan/individual support plan module is to create a written plan that includes:

(1) Your goals and desired outcomes;

(2) The services and supports, both paid and unpaid, that will assist you to achieve your identified goals.

(3) Your acuity scores generated from the support assessment;

(~~(2))~~ (4) Referral information;

(~~(3))~~ (5) The SSP, if any, you are approved to receive in lieu of a (~~(~~DDD~~)~~) DDA paid service; and

(~~(4))~~ (6) (~~(~~DDD~~)~~) DDA paid services you are authorized to receive:

(a) If you are enrolled in a (~~(~~DDD~~)~~) DDA waiver, the ISP must address all the health and welfare needs identified in your ICF/((~~MR~~))IID level of care assessment and the supports used to meet your assessed needs; or

(b) If you are not enrolled in a (~~(~~DDD~~)~~) DDA waiver, (~~(~~DDD~~)~~) DDA is only required to address the (~~(~~DDD~~)~~) DDA paid services you are approved to receive.

AMENDATORY SECTION (Amending WSR 08-20-118, filed 9/30/08, effective 10/31/08)

**WAC 388-831-0065 What if I refuse to participate in the risk assessment?** (1) If you refuse to participate in the risk assessment, the (~~(~~division~~)~~) administration cannot determine what your health and safety needs are, or whether you can be supported successfully in the community with reasonable safeguards. You will not be eligible for any (~~(~~division~~)~~) administration services except for case management and community first choice (CFC) or medicaid personal care (MPC) services (if eligible under chapter 388-106 WAC).

(2) Your name will be placed on the specialized client database. This database identifies individuals who may present a danger to their communities.

(3) If (~~(~~DDD~~)~~) DDA determines it can provide only case management and (~~(~~personal care~~)~~) CFC or MPC services, you and your legal representative will receive a notice of the determination that explains the decision and your right to appeal that decision.

AMENDATORY SECTION (Amending WSR 08-20-118, filed 9/30/08, effective 10/31/08)

**WAC 388-831-0160 What services may I receive if I refuse placement in the community protection program?** If you are offered and refuse community protection program residential services, you may only receive case management services and community first choice or medicaid personal care services (if eligible under chapter 388-106 WAC).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0001 Definitions.** "Aggregate services" means a combination of services subject to the dollar limitations in the Basic Plus waivers.

"Allocation" means the amount of IFS waiver funding available to the client for a maximum of twelve months.

"CARE" means comprehensive assessment and reporting evaluation.

"CIIBS" means children's intensive in-home behavioral support waiver.

"Client or person" means a person who has a developmental disability as defined in RCW (~~(71A.10.020(3))~~) 71A.10.020(5) and has been determined eligible to receive services by the administration under chapter 71A.16 RCW.

"Community crisis stabilization services" or "CCSS" means a state operated program that provides short term supports to participants who meet specific criteria and who are in crisis and/or who are at risk of hospitalization or institutional placement.

"DDA" means the developmental disabilities administration, of the department of social and health services.

"DDA assessment" refers to the standardized assessment tool as defined in chapter 388-828 WAC, used by DDA to measure the support needs of persons with developmental disabilities.

"Department" means the department of social and health services.

"EPSDT" means early and periodic screening, diagnosis, and treatment, medicaid's child health component providing a mandatory and comprehensive set of benefits and services for children up to age twenty one as defined in WAC 182-534-0100.

"Enhanced respite services" means respite care for DDA enrolled children and youth, who meet specific criteria, in a DDA contracted and licensed staffed residential setting.

"Evidence based treatment" means the use of physical, mental and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"Family" means one or more of the following relatives; ~~((who live in the same home with the eligible client. Relatives include))~~ spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your ~~((relatives))~~ family member(s) live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"HCBS waivers" means home and community based services waivers.

"Home" means present or intended place of residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

"IFS waiver" means the individual and family services waiver.

~~((("Individual support plan (ISP)" is a document that authorizes and identifies the DDA paid services and unpaid supports to meet a client's assessed needs.))~~

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his/her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department corre-

spondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community based services waiver program.

"Person-centered service plan/individual support plan (ISP)" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan/individual support plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the Basic Plus, children's intensive in-home behavioral support, or Core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal Social Security Administration for blind, disabled and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State funded services" means services that are funded entirely with state dollars.

"You(~~(/))~~ or your" means the client.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0015 What HCBS waivers are provided by the developmental disabilities administration (DDA)?** DDA provides services through ~~((four))~~ five HCBS waivers:

- (1) Basic Plus waiver;
- (2) Core waiver;
- (3) Community protection (CP) waiver; ~~((and))~~
- (4) Children's intensive in-home behavioral support waiver (CIIBS); and
- (5) Individual and family services (IFS) waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0020 When were the HCBS waivers effective?** Basic Plus, children's intensive in-home behavioral support, Core and community protection waivers were effective September 1, 2012.

Individual and family services waiver was effective June 1, 2015.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services?** (1) You meet criteria for DDA HCBS waiver-funded services if you meet all of the following:

~~((1))~~ (a) You have been determined eligible for DDA services per RCW 71A.10.020.

~~((2))~~ (b) You have been determined to meet ICF/IID level of care per WAC 388-845-0070, 388-828-3060 and 388-828-3080.

~~((3))~~ (c) You meet disability criteria established in the Social Security Act.

~~((4))~~ (d) You meet financial eligibility requirements as defined in WAC ~~((388-515-1510))~~ 182-515-1510.

~~((5))~~ (e) You choose to receive services in the community rather than in an ICF/IID facility.

~~((6))~~ (f) You have a need for monthly waiver services or monthly monitoring as identified in your person-centered service plan/individual support plan.

~~((7))~~ (g) You are not residing in hospital, jail, prison, nursing facility, ICF/IID, or other institution.

~~((8))~~ (h) Additionally, for the children's intensive in-home behavioral support (CIIBS) waiver-funded services:

~~((a))~~ (i) You are age eight or older and under the age of eighteen for initial enrollment and under age twenty-one for continued enrollment;

~~((b))~~ (ii) You have been determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only;

~~((c))~~ (iii) You live with your family; and

~~((d))~~ (iv) Your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s), have signed the participation agreement.

(2) For individual and family services waiver funded services, you must meet the criteria in subsection (1) of this section and also:

(a) Live in your family home; and

(b) Are age three or older.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0041 What is DDA's responsibility to provide my services under the DDA HCBS waivers administered by DDA?** If you are enrolled in an HCBS waiver administered by ~~((DDA))~~ DDA.

(1) DDA will provide an annual comprehensive assessment to evaluate your health and welfare needs. Your person-centered service plan/individual support plan, as specified in WAC 388-845-3055, will document:

(a) Your identified health and welfare needs; and

(b) Your HCBS waiver services and nonwaiver services authorized to meet your assessed need.

(2) You have access to DDA paid services that are provided within the scope of your waiver, subject to the limitations in WAC 388-845-0110 and 388-845-0115.

(3) DDA will provide waiver services you need and qualify for within your waiver.

(4) DDA will not deny or limit, based on lack of funding, the number of waiver services for which you are eligible.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled?** When there is capacity on a waiver and available funding for new waiver participants, DDA may enroll people from the statewide data base in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(i).

(3) ~~((For the Basic Plus waiver only,))~~ DDA may consider persons who need the waiver services available in the Basic Plus or IFS waivers to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0052 What is the process if I am already on a DDA HCBS waiver and request enrollment onto a different ~~((waiver))~~ DDA HCBS waiver?** (1) If you are already enrolled in a DDA HCBS waiver and you request to be enrolled in a different waiver DDA will do the following:

(a) Assess your needs to determine whether your health and welfare needs can be met with services available on your current waiver or whether those needs can only be met through services offered on a different waiver.

(b) If DDA determines your health and welfare needs can be met by services available on your current waiver your enrollment request will be denied.

(c) If DDA determines your health and welfare needs can only be met by services available on a different waiver your

service need will be reflected in your person-centered service plan/((ISP)) individual support plan.

(d) If DDA determines there is capacity on the waiver that is determined to meet your needs, DDA will place you on that waiver.

(2) You will be notified in writing of DDA's decision under subsection (1)(a) of this section and if your health and welfare needs cannot be met on your current waiver, DDA will notify you in writing whether there is capacity on the waiver that will meet your health and welfare needs and whether you will be enrolled on that waiver. If current capacity on that waiver does not exist, your eligibility for enrollment onto that different waiver will be tracked on a statewide data base.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0055 How do I remain eligible for the waiver?** (1) Once you are enrolled in a DDA HCBS waiver, you can remain eligible if you continue to meet eligibility criteria in WAC 388-845-0030, and:

~~((4))~~ (a) You complete a reassessment with DDA at least once every twelve months to determine if you continue to meet all of these eligibility requirements; and

~~((2))~~ (b) You must either receive a waiver service at least once in every thirty consecutive days, as specified in WAC 182-513-1320 (3)~~((b))~~, or your health and welfare needs require monthly monitoring, which will be documented in your client record; and

~~((3))~~ (c) You complete an in-person DDA assessment/reassessment interview (~~(administered in your home)~~) per WAC 388-828-1520.

~~((4))~~ ~~In addition, for~~ (2) For the children's intensive in-home behavioral supports waiver, you must meet the criteria in subsection (1) of this section and:

(a) Be under age twenty-one;

(b) Live with your family; and

(c) Have an annual participation agreement signed by your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

(3) For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and:

(a) Live in the family home; and

(b) Be age three or over.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0060 Can my waiver enrollment be terminated?** DDA may terminate your waiver enrollment if DDA determines that:

(1) Your health and welfare needs cannot be met in your current waiver or for one of the following reasons:

(a) You no longer meet one or more of the requirements listed in WAC 388-845-0030;

(b) You do not have an identified need for a waiver service at the time of your annual person-centered service plan/individual support plan;

(c) You do not use a waiver service at least once in every thirty consecutive days and your health and welfare do not require monthly monitoring;

(d) You are on the community protection waiver and:

(i) You choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);

(ii) You engage in any behaviors identified in WAC 388-831-0240 (1) through (4); and

(iii) DDA determines that your health and safety needs or the health and safety needs of the community cannot be met in the community protection program.

(e) You choose to disenroll from the waiver;

(f) You reside out-of-state;

(g) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;

(h) You refuse to participate with DDA in:

(i) Service planning;

(ii) Required quality assurance and program monitoring activities; or

(iii) Accepting services agreed to in your person-centered service plan/individual support plan as necessary to meet your health and welfare needs.

(i) You are residing in a hospital, jail, prison, nursing facility, ICF/IID, or other institution and remain in residence at least one full calendar month, and are still in residence:

(i) At the end of that full calendar month, there is no immediate plan for you to return to the community; or

(ii) At the end of the twelfth month following the effective date of your current person-centered service plan/individual support plan, as described in WAC 388-845-3060; or

(iii) The end of the waiver fiscal year, whichever date occurs first.

(j) Your needs exceed the maximum funding level or scope of services under the Basic Plus waiver as specified in WAC 388-845-3080; or

(k) Your needs exceed what can be provided under WAC 388-845-3085; or

(2) Services offered on a different waiver can meet your health and welfare needs and DDA enrolls you on a different waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0100 What determines which waiver I am assigned to?** DDA will assign you to the waiver with the minimum service package necessary to meet your health and welfare needs, based on its evaluation of your DDA assessment as described in chapter 388-828 WAC and the following criteria:

(1) For the individual and family services waiver, you:

(a) Are age three or older;

(b) Live in your family home; and

(c) Are assessed to need a waiver service to remain in the family home.

(2) For the Basic Plus waiver your health and welfare needs require a waiver service to remain in the community.

~~((2))~~ (3) For the Core waiver:

(a) You are at immediate risk of out-of-home placement; and/or

(b) You have an identified health and welfare need for residential services that cannot be met by the Basic Plus waiver.

~~((3))~~ (4) For the community protection waiver, refer to WAC 388-845-0105 and chapter 388-831 WAC.

~~((4))~~ (5) For the children's intensive in-home behavioral support waiver, you:

(a) Are age eight or older and under age eighteen;

(b) Live with your family;

(c) Are assessed at high or severe risk of out of home placement due to challenging behavior per chapter 388-828 WAC; and

(d) You have a signed participation agreement from your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0105 What criteria determine assignment to the community protection waiver?** DDA may assign you to the community protection waiver only if you are at least eighteen years of age, not currently residing in a hospital, jail or other institution, and meet the following criteria:

(1) You have been identified by DDA as a person who meets one or more of the following:

(a) You have been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW;

(b) You have been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists;

(c) You have been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger as determined by a qualified professional;

(d) You have not been convicted and/or charged, but you have a history of stalking, violent, sexually violent, predatory and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence, as determined by a qualified professional; or

(e) You have committed one or more violent offense, as defined in RCW 9.94A.030.

(2) You receive or agree to receive residential services from certified residential community protection provider-intensive supported living services (CP-ISLS); and

(3) You comply with the specialized supports and restrictions in your:

(a) Person-centered service plan/individual support plan;

(b) Individual instruction and support plan (IISP); and/or

(c) Treatment plan provided by DDA approved certified individuals and agencies.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0110 Are there limitations to the waiver services I can receive?** There are limitations to waiver services. ~~((In addition to the limitations to your access to nonwaiver services cited for specific services in WAC 388-845-0115, the following limitations apply))~~ Those are:

(1) A service must be ~~((offered))~~ available in your waiver.

(2) The need for a service must be identified and authorized in your person-centered service plan/individual support plan.

~~((2))~~ (3) Behavioral health stabilization services may be added to your person-centered service plan/individual support plan after the services are provided.

~~((3))~~ (4) Waiver services are limited to services required to prevent ICF/IID placement.

~~((4))~~ (5) The cost of your waiver services cannot exceed the average daily cost of care in an ICF/IID.

~~((5))~~ (6) Waiver services cannot replace or duplicate other available paid or unpaid supports or services. You must first pursue benefits available to you through private insurance, the medicaid state plan, or other resources.

~~((6))~~ (7) Waiver funding cannot be authorized for treatments determined by DSHS to be experimental.

~~((7) The))~~ (8) For IFS and Basic Plus waivers, ~~((has))~~ services must not exceed the yearly limits ((on some)) specified in these programs for specific services ((and) or combinations of services. ((The combination of services is referred to as aggregate services.))

~~((8))~~ (9) Your choice of qualified providers and services is limited to the most cost effective option that meets your health and welfare needs.

~~((9))~~ (10) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care and personal care during vacations of not more than thirty consecutive days.

(a) You may receive services in a recognized out-of-state bordering city on the same basis as in-state services.

(b) The only recognized bordering cities per WAC 182-501-0175 are:

(i) Coeur d'Alene, Moscow, Sandpoint, Priest River and Lewiston, Idaho; and

(ii) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater and Astoria, Oregon.

~~((10))~~ (11) Other out-of-state waiver services require an approved exception to rule before DDA can authorize payment.

~~((11))~~ (12) Waiver services do not cover co-pays, deductibles, dues, membership fees or subscriptions.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-0111 Are there limitations regarding who can provide services?** The following limitations apply to providers for waiver services:

(1) Your spouse must not be your paid provider for any waiver service.

(2) If you are under age eighteen, your natural, step, or adoptive parent must not be your paid provider for any waiver service.

(3) If you are age eighteen or older, your natural, step, or adoptive parent must not be your paid provider for any waiver service with the exception of:

- (a) Personal care;
- (b) Transportation to and from a waiver service;
- (c) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or

(d) Respite care if you and the parent who provides the respite care live in separate homes.

(4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:

- (a) ~~(Personal care;~~
- ~~(b))~~ Transportation to and from a waiver service; and
- ~~((e))~~ (b) Respite per WAC 388-845-1605 through 388-845-1620.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0115 Does my waiver eligibility limit my access to DDA nonwaiver services?** If you are enrolled in a DDA HCBS waiver:

- (1) You are not eligible for state-only funding for DDA services; and
- (2) You ~~((are not))~~ may be eligible for medicaid personal care or community first choice services.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0200 What waiver services are available to me?** Each of the DDA HCBS waivers has a different scope of service and your person-centered service plan/individual support plan defines the waiver services available to you.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0210 What is the scope of services for the Basic Plus waiver?** ~~((services.))~~

BASIC PLUS WAIVER	SERVICES	YEARLY LIMIT
	AGGREGATE SERVICES: Behavior support and consultation Community guide Environmental <del>((accessibility))</del> adaptations Occupational therapy	May not exceed \$6192 per year on any combination of these services

BASIC PLUS WAIVER	SERVICES	YEARLY LIMIT
	Physical therapy Skilled nursing Specialized medical equipment/supplies Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation	
	<u>Wellness Education</u> EMPLOYMENT SERVICES: Prevocational services Supported employment Individual technical assistance	Limits are determined by DDA assessment and employment status; <u>No new enrollment in prevocational services after September 1, 2015</u>
	Community access <del>((Adult foster care-adult family home))</del> <del>((Adult residential care-assisted living facility))</del>	Limits are determined by DDA assessment <del>((Determined per department rate-structure))</del>
	BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavior support and consultation Behavioral health crisis diversion bed services Specialized psychiatric services	Limits determined by a behavioral health professional or DDA
	Personal care	Limits determined by the CARE tool used as part of the DDA assessment
	Respite care	Limits are determined by the DDA assessment



COMMUNITY PROTECTION WAIVER	SERVICES	YEARLY LIMIT
	Specialized psychiatric services Speech, hearing and language services Staff/family consultation and training Transportation	Limits determined by DDA assessment and employment status; <u>No new enrollment in prevocational services after September 1, 2015</u>
	Residential habilitation	
	Employment Services:	
	Prevocational services Supported employment Individual technical assistance	
	BEHAVIORAL HEALTH STABILIZATION SERVICES: Behavioral support and consultation Behavioral health crisis diversion bed services Specialized psychiatric services	

CIIBS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> <li>Physical therapy</li> <li>Sexual deviancy evaluation</li> <li>Nurse delegation</li> <li>Specialized medical equipment/supplies</li> <li>Specialized psychiatric services</li> <li>Speech, hearing and language services</li> <li>Transportation</li> <li>Assistive technology</li> <li>Therapeutic equipment and supplies</li> <li>Specialized nutrition and clothing</li> <li>Vehicle modifications</li> </ul>	average cost of \$4,000 per month per participant.
	<del>((Personal care))</del>	<del>((Limits determined by the DDA assessment. Costs are included in the total average cost of \$4000 per month per participant for all waiver services.))</del>
	Respite care	Limits determined by the DDA assessment. Costs are included in the total average cost of \$4000 per month per participant for all waiver services.
	Behavioral health Stabilization services: Behavioral support and consultation Crisis diversion bed services Specialized psychiatric services	Limits determined by behavioral health specialist

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0225** What is the scope of services for the children's intensive in-home behavioral support (CIIBS) waiver? ~~((services.))~~

CIIBS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> <li>Behavior support and consultation</li> <li>Staff/family consultation and training</li> <li>Environmental <del>((accessibility))</del> adaptations</li> <li>Occupational therapy</li> </ul>	Determined by the <u>person-centered service plan</u> /individual support plan. Total cost of waiver services cannot exceed the



NEW SECTION

**WAC 388-845-0230 What is the scope of services for the individual and family services (IFS) waiver?** (1) IFS waiver services include:

IFS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> <li>• Assistive technology</li> <li>• Behavior support and consultation</li> <li>• Community engagement</li> <li>• Staff/family consultation and training</li> <li>• Environmental adaptations</li> <li>• Occupational therapy</li> <li>• Physical therapy</li> <li>• Sexual deviancy evaluation</li> <li>• Nurse delegation</li> <li>• Peer mentoring</li> <li>• Person-centered plan facilitation</li> <li>• Respite care</li> <li>• Specialized clothing</li> <li>• Specialized medical equipment/supplies</li> <li>• Specialized nutrition</li> <li>• Specialized psychiatric services</li> <li>• Speech, hearing and language services</li> <li>• Supported parenting services</li> <li>• Transportation</li> <li>• Therapeutic equipment and supplies</li> <li>• Vehicle modifications</li> <li>• Wellness education</li> </ul>	<p>Total cost of waiver services cannot exceed annual allocation determined by the person-centered service plan/ISP.</p>

IFS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> <li>• Behavioral health</li> <li>• Stabilization services:</li> <li>• Behavioral support and consultation</li> <li>• Specialized psychiatric services</li> </ul>	<p>Limits determined by behavioral health specialist.</p>

(2) Your IFS waiver services annual allocation is based upon the DDA assessment described in chapter 388-828 WAC. The DDA assessment determines your service level & annual allocation based on your assessed need. Annual allocations are:

- (a) Level 1 = one thousand two hundred dollars;
- (b) Level 2 = one thousand eight hundred dollars;
- (c) Level 3 = two thousand four hundred dollars; or
- (d) Level 4 = three thousand six hundred dollars.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-0415 What is assistive technology?**

Assistive technology consists of items, equipment, or product systems used to increase, maintain, or improve functional capabilities of waiver participants, as well as services to directly assist the participant and caregivers to select, acquire, and use the technology. Assistive technology is available in the CIIBS and IFS waivers, and includes the following:

- (1) The evaluation of the needs of the waiver participant, including a functional evaluation of the ~~((child))~~ participant in the ~~((child's))~~ participant's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for the participant and/or if appropriate, the ~~((child's))~~ participant's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise involved in the assistive technology related life functions of ~~((children))~~ individuals with disabilities.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0420 Who is a qualified provider of assistive technology?** The provider of assistive technology must be an ~~((assistive technology vendor))~~ entity contracted with DDA to provide assistive technology, or one of the fol-

lowing professionals contracted with DDA and duly licensed, registered or certified to provide this service:

- (1) Occupational therapist;
- (2) Physical therapist;
- (3) Speech and language pathologist;
- (4) Certified music therapist;
- (5) ~~((Certified recreation therapist))~~ Recreation therapist registered in Washington and certified by the National Council for Therapeutic Recreation;
- (6) Audiologist; ~~((øø))~~
- (7) Behavior specialist~~((:))~~; or
- (8) Rehabilitation counselor.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0425 Are there limits to the assistive technology I can receive?** (1) ~~((Providers of assistive technology services must be certified, registered or licensed therapists as required by law and contracted with DDA for the therapy they are providing.))~~ Clinical and support needs for assistive technology are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) ~~((Vendors of assistive technology must maintain a business license required by law and be contracted with DDA to provide this service.~~

~~((3)))~~ Assistive technology may be authorized as a waiver service by obtaining an initial denial of funding or information showing that the technology is not covered by medicaid or private insurance.

~~((4)))~~ (3) The department does not pay for experimental technology.

~~((5)))~~ (4) The department requires your treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The treating professional has personal knowledge of and experience with the requested ~~((and alternative))~~ assistive technology; and

(b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

~~((6)))~~ (5) Assistive technology requires prior approval by the DDA regional administrator or designee.

(6) The department may require a written second opinion from a department selected professional that meets the same criteria in subsection ~~((5) above)~~ (4) of this section.

(7) The dollar amounts for your IFS waiver annual allocation limit the amount of assistive technology you are authorized to receive.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0505 Who is a qualified provider of behavior support and consultation?** Under the Basic Plus, Core, ~~((and community protection))~~ CP and IFS waivers, the provider of behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered or certified to provide this service:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Counselors registered or certified in accordance with the requirements of chapter 18.19 RCW;
- (11) Polygrapher; or
- (12) State operated behavior support agency limited to behavioral health stabilization services.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0510 Are there limits to the behavior support and consultation I can receive?** ~~((The following limits apply to your receipt of))~~ (1) Clinical and support needs for behavior support and consultation~~((:))~~ are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

~~((4)))~~ (2) DDA and the treating professional will determine the need and amount of service you will receive, subject to the limitations in subsection ~~((2))~~ (3) ~~((below))~~ of this section.

~~((2)))~~ (3) The dollar ~~((limitations))~~ amounts for aggregate services in your Basic Plus waiver or the dollar amounts in the annual allocation for the IFS waiver limit the amount of service unless provided as a behavioral health stabilization service.

~~((3)))~~ (4) DDA reserves the right to require a second opinion from a department-selected provider.

~~((4)))~~ (5) Behavior support and consultation not provided as a behavioral health stabilization service requires prior approval by the DDA regional administrator or designee.

**Reviser's note:** The typographical 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.

#### NEW SECTION

**WAC 388-845-0650 What are community engagement services?** (1) Community engagement services are services designed to increase a waiver participant's connection to and engagement in formal and informal community supports.

(2) Services are designed to develop creative, flexible, and supportive community resources and relationships for individuals with developmental disabilities.

(3) Waiver participants are introduced to the community resources and supports that are available in their area.

(4) Participants are supported to develop skills that will facilitate integration into their community.

(5) Outcomes for this service include skill development, opportunities for socialization, valued community roles, and involvement in community activities/organizations/groups/projects/other resources.

(6) This service is available in the IFS waiver.

#### NEW SECTION

**WAC 388-845-0655 Who are qualified providers of community engagement services?** (1) Qualified providers of community engagement services must be contracted with DSHS to provide this service and must be an individual or organization that has specialized training to provide services to people with developmental disabilities. Qualified provider types include:

(a) Registered recreational therapists in the state of Washington; or

(b) Organizations that provide services that promote skill development, improved functioning, increased independence as well as reducing or eliminating the effects of illness or disability. Examples of these organizations include but are not limited to:

(i) Community centers;

(ii) Municipal parks and recreation programs;

(iii) Therapeutic recreation camps and programs; or

(iv) Organizations that provide supports for individuals with developmental disabilities.

#### NEW SECTION

**WAC 388-845-0660 Are there limitations to the community engagement services I can receive?** (1) Support needs for community engagement services are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) The dollar amounts in the annual allocation for the IFS waiver limit the amount of service you can receive.

(3) Community engagement services do not pay for the following costs:

(a) Membership fees or dues; and/or

(b) Equipment related to activities; and/or

(c) The cost of any activities;

(4) Community engagement services are limited to the community where you live.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0820 Are there limits to my use of emergency assistance?** All of the following limitations apply to your use of emergency assistance:

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan/individual support plan to determine the need for emergency services;

(2) Payment authorizations are reviewed every thirty days and cannot exceed six thousand dollars per twelve months based on the effective date of your current ~~((plan of care or))~~ person-centered service plan/individual support plan;

(3) Emergency assistance services are limited to the Basic Plus waiver aggregate services;

(4) Emergency assistance may be used for interim services until:

(a) The emergency situation has been resolved; or

(b) You are transferred to alternative supports that meet your assessed needs; or

(c) You are transferred to an alternate waiver that provides the service you need.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0900 What are environmental (~~(accessibility))~~ adaptations?** (1) Environmental (~~(accessibility))~~ adaptations are available in all of the DDA HCBS waivers. Environmental adaptations (~~and~~) provide (~~the~~) physical adaptations within the physical structure of the home, or outside the home to provide access to the home. The need must be identified by the DDA assessment and the participant's person-centered service plan/ (required by the individual's) individual support plan, (needed to) Environmental adaptations must meet one or more of the following criteria:

(a) Ensure the health, welfare and safety of the individual or caregiver or both; or

(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home.

(2) Environmental (~~(accessibility))~~ adaptations may include the purchase and installation of ((ramps and grab bars, widening of doorways, modification of bathroom facilities, or installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.)) the following:

(a) Portable and fixed ramps;

(b) Grab bars and handrails;

(c) Widening of doorways, addition of pocket doors, or removal of non-weight bearing walls for accessibility;

(d) Prefabricated roll-in showers and bathtubs;

(e) Automatic touchless or other adaptive faucets and switches;

(f) Automatic turn-on and shut-off adaptations for appliances in the home;

(g) Adaptive toilets, bidets, and sinks;

(h) Specialized electrical or plumbing systems necessary for the approved modification or medical equipment and supplies that are necessary for the welfare of the individual and/or safety of the caregiver;

(i) Repairs to environmental adaptations due to wear and tear if necessary for client safety and more cost-effective than replacement of the adaptation;

(j) Debris removal necessary due to hoarding behavior addressed in the participant's positive behavior support plan (PBSP);

(k) Lowering or raising of counters, sinks, cabinets, or other modifications for accessibility;

(l) Reinforcement of walls and replacement of hollow doors with solid core doors;

(m) Replacement of windows with non-breakable glass;

(n) Adaptive hardware and switches;

(o) Ceiling mounted lift systems or portable lift systems;  
and

(p) Other adaptations that meet identified needs.

(3) For the CIIBS and IFS waivers only, adaptations ((include repairs)) to the home necessary ((due to)) to prevent property destruction caused by the participant's behavior, as addressed in the participant's positive behavior support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0905 Who is a qualified provider for ((building these)) environmental ((accessibility)) adaptations?** ~~((The provider making these environmental accessibility adaptations))~~

(1) For adaptations that do not require installation, qualified providers are retail vendors with a valid business license contracted with DDA to provide this service.

(2) For adaptations requiring installation, qualified providers must be a registered contractor per chapter 18.27 RCW and contracted with DDA. The contractor or subcontractor must be licensed and bonded to perform the specific type of work they are providing.

(3) For debris removal, qualified providers must be contracted with DDA.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0910 What limitations apply to environmental ((accessibility)) adaptations?** The following service limitations apply to environmental ((accessibility)) adaptations:

(1) Clinical and support needs for environmental adaptations are identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Environmental ((accessibility)) adaptations require prior approval by the DDA regional administrator or designee((-)) supported by written bids from licensed contractors. All bids must include:

(a) The cost of all required permits and sales tax; and

(b) An itemized and clearly outlined scope of work.

(i) One bid is required for adaptations costing one thousand five hundred dollars or less;

(ii) Two bids are required for adaptations costing more than one thousand five hundred dollars and equal to or less than five thousand dollars;

(iii) Three bids are required for adaptations costing more than five thousand dollars.

(3) DDA may require an occupational therapist, physical therapist, or construction consultant to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

~~((2) With the exception of damage repairs under the CIIBS waiver, e))~~ (4) Environmental ((accessibility)) adaptations or improvements to the home are excluded if they are of general utility without direct medical or remedial benefit

to the individual, such as carpeting, roof repair, central air conditioning, etc.

(5) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to authorizing payment for work.

(6) Deteriorated condition of the dwelling or other remodeling projects in progress in the dwelling may prevent or limit some or all environmental adaptations at the discretion of DDA.

(7) Location of the dwelling in a flood plain, landslide zone or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

(8) Written consent from the dwelling landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's dwelling.

~~((3))~~ (9) Environmental ((accessibility)) adaptations cannot add to the total square footage of the home.

~~((4))~~ (10) The dollar ((limitations)) amounts for aggregate services in your Basic Plus waiver or the dollar amount of your annual IFS allocation limit the amount of service you may receive.

~~((5))~~ (11) Damage repairs under the CIIBS and IFS waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original condition((-);

(b) Limited to the dollar amounts of the IFS waiver participant's annual allocation;

(c) Behaviors of waiver participants that resulted in damage to the dwelling must be addressed in a positive behavior support plan prior to the repair of damages;

~~((b))~~ (d) Repairs to personal property such as furniture, appliances, and normal wear and tear are excluded.

(12) The following adaptations are not included in this service:

(a) Building fences and fence repairs; and

(b) Carpet or carpet replacement.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1015 Are there limits to the extended state plan services I can receive?** (1) Clinical and support needs for extended state plan services are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Additional therapy may be authorized as a waiver service only after you have accessed what is available to you under medicaid and any other private health insurance plan;

~~((2))~~ (3) The department does not pay for treatment determined by DSHS to be experimental;

~~((3))~~ (4) The department and the treating professional determine the need for and amount of service you can receive:

(a) The department may require a second opinion from a department selected provider.

(b) The department will require evidence that you have accessed your full benefits through medicaid before authorizing this waiver service.

~~((4))~~ (5) The dollar ~~(limitations)~~ amount for Basic Plus waiver aggregate services limit the amount of service you may receive.

(6) The dollar amount for your annual allocation on the IFS waiver limit the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1040 Are there limits to the individualized technical assistance services I can receive?** (1) Individualized technical assistance service cannot exceed three months in an individual's plan year.

(2) These services are available on the Basic Plus, Core and ~~(community protection)~~ CP waivers.

(3) Individual must be receiving supported employment or prevocational services.

(4) Services are limited to additional hours per WAC 388-828-9355 and 388-828-9360.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1110 What are the limits of behavioral health crisis diversion bed services?** (1) Clinical and support needs for behavioral health crisis diversion bed services are identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Behavioral health crisis diversion bed services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a behavioral health professional and/or DDA.

~~((2))~~ (3) These services are available in the CIIBS, Basic Plus, Core~~(7)~~ and community protection waivers administered by DDA as behavioral health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.

~~((3))~~ (4) The costs of behavioral health crisis diversion bed services do not count toward the dollar ~~(limits)~~ amounts for aggregate services in the Basic Plus waiver.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1150 What are behavioral health stabilization services?** Behavioral health stabilization services assist persons who are experiencing a behavioral health crisis or meet criteria for enhanced respite or community crisis stabilization services. These services are available in the Basic Plus, Core, CIIBS, IFS and community protection waivers to individuals determined by behavioral health professionals or DDA to be at risk of institutionalization or hospitalization who need one or more of the following services:

(1) Behavior support and consultation;

(2) Specialized psychiatric services; or

(3) Behavioral health crisis diversion bed services (not available to participants on the IFS waiver).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1160 Are there limitations to the behavioral health stabilization services that I can receive?**

(1) Clinical and support needs for behavioral health stabilization services are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Behavioral health stabilization services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a behavioral health professional and/or DDA.

~~((2))~~ (3) The costs of behavioral health stabilization services do not count toward the dollar ~~(limitations)~~ amounts for aggregate services in the Basic Plus waiver or the annual allocation in the IFS waiver.

~~((3))~~ (4) Behavioral health stabilization services require prior approval by DDA or its designee.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-1170 What is nurse delegation?** (1) Nurse delegation services are services in compliance with WAC 246-840-910 through 246-840-970 by a registered nurse to provide training and nursing management for nursing assistants who perform delegated nursing tasks.

(2) Delegated nursing tasks include, but are not limited to, administration of noninjectable medications except for insulin, blood glucose testing, and tube feedings.

(3) Services include the initial visit, care planning, competency testing of the nursing assistant, consent of the client, additional instruction and supervisory visits.

(4) Clients who receive nurse delegation services must be considered "stable and predictable" by the delegated nurse.

(5) Nurse delegation services are available on all DDA HCBS waivers.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-1180 Are there limitations to the nurse delegation services that I receive?** The following limitations apply to receipt of nurse delegation services:

(1) Clinical and support needs for nurse delegation are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) The department requires the delegating nurse's written recommendation regarding your need for the service. This recommendation must take into account that the nurse has recently examined you, reviewed your medical records, and conducted a nursing assessment.

~~((2))~~ (3) The department may require a written second opinion from a department selected nurse delegator that meets the same criteria in subsection ~~((4))~~ (2) of this section.

~~((3))~~ (4) The following tasks must not be delegated:

(a) Injections, other than insulin;

(b) Central lines;

- (c) Sterile procedures; and
- (d) Tasks that require nursing judgment.

(5) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts for your annual allocation in your IFS waiver limit the amount of nurse delegation service you are authorized to receive.

#### NEW SECTION

**WAC 388-845-1190 What is peer mentoring?** (1) Peer mentoring is a form of mentorship that takes place between a person who is living through the experience of having a developmental disability or being the family member of a person who has a developmental disability (peer mentor) and a person who is new to that experience (the peer mentee).

(2) Peer mentors utilize their personal experiences to provide support and guidance to a waiver participant and family members of a waiver participant.

(3) Peer mentors may orient a waiver participant to local community services, programs and resources and provide answers to participants' questions or suggest other sources of support.

(4) Peer mentoring is available in the IFS waiver.

#### NEW SECTION

**WAC 388-845-1191 Who are qualified providers of peer mentoring?** Qualified providers include organizations who:

(1) Provide peer mentoring support and training to individuals with developmental disabilities or to families with a member with a developmental disability; and

(2) Are contracted with DDA to provide this service.

#### NEW SECTION

**WAC 388-845-1192 What limitations are there for peer mentoring?** (1) Support needs for peer mentoring are identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Peer mentors cannot mentor their own family members.

(3) The dollar amounts for the waiver participant's annual allocation in the IFS waiver limit the amount of peer mentoring service that the participant is authorized to receive.

#### NEW SECTION

**WAC 388-845-1195 What is person-centered plan facilitation?** (1) Person-centered plan facilitation is an approach to forming life plans that is centered on the individual. It is used as a life planning process to enable individuals with disabilities to increase personal self-determination. Person-centered plan facilitation is available in the IFS waiver.

(2) Person-centered plan facilitation typically includes:

(a) Identifying and developing a potential circle of people who know and care about the individual;

(b) Exploring what matters to the waiver participant by listening to and learning from the person;

(c) Developing a vision for a meaningful life, as defined by the waiver participant, which may include goals for education, employment, housing, relationships and recreation;

(d) Discovering capacities and assets of the waiver participant and her or his family, neighborhood, and support network;

(e) Generating an action plan; and

(f) Facilitating follow-up meetings to track progress towards goals.

#### NEW SECTION

**WAC 388-845-1196 Who are qualified providers of person-centered plan facilitation?** Qualified providers include organizations and individuals who:

(1) Provide person-centered plan facilitation to individuals with developmental disabilities; and

(2) Are contracted with DDA to provide this service.

#### NEW SECTION

**WAC 388-845-1197 What limitations are there for person-centered plan facilitation?** (1) Support needs for person-centered planning facilitation are identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Person-centered plan facilitation may include follow up contacts with the waiver participant and his or her family to consult on plan implementation.

(3) The dollar amounts for the waiver participants' annual allocation in the IFS waiver limit the amount of person-centered plan facilitation service the individual is authorized to receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1300 What are personal care services?** Personal care services as defined in WAC 388-106-0010 are the provision of assistance with personal care tasks. These services are available in the Basic Plus(~~(, CHBS and Core)~~) waiver(~~(s)~~) if:

(1) You do not meet the programmatic eligibility requirements for community first choice services in chapter 388-106 WAC; and

(2) You meet the programmatic eligibility requirements for medicaid personal care in chapter 388-106 WAC.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1310 Are there limits to the personal care services I can receive?** (1) Clinical and support needs for personal care services are identified in your DDA assessment and documented in your person-centered service plan/individual support plan.

(2) You must meet the programmatic eligibility for medicaid personal care in chapter 388-106 WAC governing medicaid personal care (MPC) using the current department approved assessment form: Comprehensive assessment reporting evaluation (CARE).

~~((2))~~ (3) The maximum hours of personal care you may receive are determined by the CARE tool used as part of the DDA assessment.

(a) Provider rates are limited to the department established hourly rates for in-home medicaid personal care.

(b) Homecare agencies must be licensed through the department of health and contracted with DSHS.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1410 Are there limits to the prevocational services I can receive?** The following limitations apply to your receipt of prevocational services:

(1) Clinical and support needs for prevocational services are identified in your DDA assessment and documented in your person-centered service plan/individual support plan.

(2) You must be age twenty and graduating from high school prior to your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((2) New referrals for prevocational services require prior approval by the DDA regional administrator and county coordinator or their designees.))~~

(3) Effective September 1, 2015, no new referrals are accepted for prevocational services.

~~((3))~~ (4) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals;

(c) Recommendation by your individual support plan team.

~~((4))~~ (5) You will not be authorized to receive prevocational services in addition to community access services or supported employment services.

~~((5))~~ (6) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1600 What is respite care?** Respite care is short-term intermittent care in order to provide relief for persons who ~~((normally provide care for and 1))~~

(1) Live with you and are your primary care providers; and are

(a) Your family members (paid or unpaid care providers); or

(b) Nonfamily members who are not paid to provide care for you; or

(c) Contracted companion home providers paid by DDA to provide support to you; or

(d) Licensed children's foster home providers paid by DDA to provide support to you.

(2) This service is available in the Basic Plus, CIIBS, ~~((and))~~ Core and IFS waivers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1605 Who is eligible to receive respite care?** You are eligible to receive respite care if you are in the Basic Plus, CIIBS, ~~((or))~~ Core or IFS waiver and ~~((:))~~ meet the criteria in WAC 388-845-1600.

~~((1) You live in a private home and no person living with you is contracted by [DSHS] to provide you with a service; or~~

~~(2) You are age eighteen or older and:~~

~~(a) You live with your natural, step or adoptive parent(s) who is also contracted by [DSHS] to provide you with a service; and~~

~~(b) No one else living with you is contracted by DSHS to provide you with a service; or~~

~~(3) You are under the age of eighteen and:~~

~~(a) You live with your natural, step or adoptive parent(s); and~~

~~(b) There is a person living with you who is contracted by DSHS to provide you with a service; or~~

~~(4) You live with a caregiver who is paid by DDA to provide supports as:~~

~~(a) A contracted companion home provider; or~~

~~(b) A licensed children's foster home provider.))~~

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1607 Can someone who lives with me be my respite provider?** Someone who lives with you may be your respite provider as long as he or she is not ~~((the person who normally provides care for you))~~ your primary care provider and is not contracted to provide any other DSHS paid service to you. The limitations listed in WAC 388-845-0111 also apply.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1620 Are there limits to the respite care I can receive?** The following limitations apply to the respite care you can receive:

(1) For basic plus, core and CIIBS waivers, the DDA assessment will determine how much respite you can receive per chapter 388-828 WAC.

(2) For the IFS waiver, the dollar amount for your annual allocation in your IFS waiver limits the amount of respite care you may receive.

(3) Respite cannot replace:

(a) Day care while your parent or guardian is at work; and/or

(b) Personal care hours available to you. When determining your unmet need, DDA will first consider the personal care hours available to you.

~~((3))~~ (4) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

~~((4))~~ (5) Your (caregiver) individual respite provider may not provide;

(a) Other DDA services for you (or other persons) during your respite care hours(-); or

(b) DDA paid services to other persons during your respite care hours.

~~((5) If your personal care provider is your parent, your parent provider will not be paid to provide respite services to any client in the same month that you receive respite services.)~~

(6) Your primary caregivers may not provide other DDA services for you during your respite care hours.

(7) If your personal care provider is your parent and you live in your parent's adult family home you may not receive respite.

~~((7))~~ (8) DDA may not pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.

~~((8))~~ (9) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN. Respite care from a LPN or RN requires prior approval per WAC 388-845-1700(2). If you are in the IFS or Basic Plus waiver, skilled nursing services are limited to the dollar ((limits)) amounts of your basic plus aggregate services or IFS annual allocation per WAC 388-845-0210 and 388-845-0230.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1660 Are there limitations to the sexual deviancy evaluations I can receive?** (1) Clinical and support needs for sexual deviancy evaluations are identified in your DDA assessment and documented in the person-centered service plan/individual support plan. Sexual deviancy evaluations must meet the standards contained in WAC 246-930-320.

(2) Sexual deviancy evaluations require prior approval by the DDA regional administrator or designee.

(3) The costs of sexual deviancy evaluations do not count toward the dollar limits for aggregate services in the Basic Plus waivers or the annual allocation in the IFS waiver.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-1700 What is skilled nursing?** (1) Skilled nursing is continuous, intermittent, or part time nursing services. These services are available in the Basic Plus, Core, IFS and ((Community Protection)) CP waivers.

(2) Services include nurse delegation services, per WAC 388-845-1170, provided by a registered nurse, including the initial visit, follow-up instruction, and/or supervisory visits.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1710 Are there limitations to the skilled nursing services I can receive?** The following limitations apply to your receipt of skilled nursing services:

(1) Clinical and support needs for skilled nursing services are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

~~((1))~~ (2) Skilled nursing services with the exception of nurse delegation and nursing evaluations require prior approval by the DDA regional administrator or designee.

~~((2))~~ (3) DDA and the treating professional determine the need for and amount of service.

~~((3))~~ (4) DDA reserves the right to require a second opinion by a department-selected provider.

~~((4))~~ (5) The dollar ((limitation)) amount for aggregate services in your Basic Plus waiver or the dollar amount of your annual allocation in your IFS waiver limits the amount of skilled nursing services you may receive.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1800 What are specialized medical equipment and supplies?** (1) Specialized medical equipment and supplies are durable and nondurable medical equipment not available through medicaid or the state plan (or are in excess of what is available through the medicaid state plan benefit) which enables individuals to:

(a) Increase their abilities to perform their activities of daily living; or

(b) Perceive, control or communicate with the environment in which they live.

(2) Durable medical equipment and medical supplies are defined in WAC 182-543-1000 and 182-543-5500 respectively.

(3) Also included are items necessary for life support; and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) above.

(4) Specialized medical equipment and supplies include the maintenance and repair of specialized medical equipment not covered through the medicaid state plan.

(5) Specialized medical equipment and supplies are available in all DDA HCBS waivers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1810 Are there limitations to my receipt of specialized medical equipment and supplies?**



The following limitations apply to your receipt of specialized medical equipment and supplies:

(1) Clinical and support needs for specialized medical equipment and supplies are identified in the waiver participant's DDA assessment and documented in the person-centered service plan/individual support plan.

~~((1))~~ (2) Specialized medical equipment and supplies require prior approval by the DDA regional administrator or designee for each authorization.

~~((2))~~ (3) DDA ~~((reserves the right to))~~ may require a second opinion by a department-selected provider.

~~((3))~~ (4) Items ~~((reimbursed))~~ purchased with waiver funds ~~((shall))~~ must be in addition to any medical equipment and supplies furnished under the medicaid state plan.

~~((4))~~ (5) Items must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability.

~~((5))~~ (6) Medications, prescribed or nonprescribed, and vitamins are excluded.

~~((6))~~ (7) The dollar ~~((limitations))~~ amounts for aggregate services in your Basic Plus waiver limit the amount of service you may receive.

(8) The dollar amounts for your annual allocation in your IFS waiver limit the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-1840 What is specialized nutrition ((and specialized clothing))?** ~~((1))~~ Specialized nutrition is available to you in the CIIBS and IFS waivers and is defined as:

~~((a))~~ (1) Assessment, intervention, and monitoring services from a certified dietitian; and/or

~~((b))~~ (2) Specially prepared food, or purchase of particular types of food, needed to sustain you in the family home. Specialized nutrition is in addition to meals a parent would provide and specific to your medical condition or diagnosis.

~~((2) Specialized clothing is available to you in the CIIBS waiver and defined as nonrestrictive clothing adapted to the participant's individual needs and related to his/her disability. Specialized clothing can include weighted clothing, clothing designed for tactile defensiveness, specialized footwear, or reinforced clothing.)~~

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1845 Who are qualified providers of specialized nutrition ((and specialized clothing))?** ~~((1))~~ Providers of specialized nutrition are:

~~((a))~~ (1) Certified dietitians contracted with DDA to provide this service or employed by an agency contracted with DDA to provide this service; and

~~((b))~~ (2) Specialized nutrition vendors contracted with DDA to provide this service.

~~((2) Providers of specialized clothing are specialized clothing vendors contracted with DDA to provide this service.)~~

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1850 Are there limitations to my receipt of specialized nutrition ((and specialized clothing))?** (1) The following limitations apply to your receipt of specialized nutrition services:

(a) Clinical and support needs for specialized nutrition are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(b) Specialized nutrition may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available;

~~((b))~~ (c) Services must be safe, effective, and individualized;

~~((c))~~ (d) Services must be ordered by a physician licensed to practice in the state of Washington;

~~((d))~~ (e) Specialized diets must be periodically monitored by a certified dietitian;

~~((e))~~ (f) Specialized nutrition products will not constitute a full nutritional regime unless an enteral diet is the primary source of nutrition;

~~((f))~~ (g) Department coverage of specialized nutrition products is limited to costs that are over and above inherent family food costs;

~~((g))~~ (h) DDA ~~((reserves the right to))~~ may require a second opinion by a department selected provider; and

~~((h))~~ (i) Prior approval by regional administrator or designee is required for the CIIBS waiver.

~~(2) ((The following limitations apply to your receipt of specialized clothing.)) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.~~

~~((a) Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.~~

~~(b) The department requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.~~

~~(c) The department may require a second opinion from a department selected provider that meets the same criteria as subsection (b) of this section.~~

~~(d) Prior approval by regional administrator or designee is required.)~~

#### NEW SECTION

**WAC 388-845-1855 What is specialized clothing?** Specialized clothing is available to you in the CIIBS and IFS waivers and is defined as nonrestrictive clothing adapted to your individual needs and related to your disability, such as weighted clothing, clothing designed for tactile defensiveness, specialized footwear, or reinforced clothing.

NEW SECTION

**WAC 388-845-1860 Who are qualified providers of specialized clothing?** Providers of specialized clothing are specialized clothing vendors contracted with DDA to provide this service.

NEW SECTION

**WAC 388-845-1865 Are there limitations to my receipt of specialized clothing?** (1) The following limitations apply to your receipt of specialized clothing:

(a) Clinical and support needs for specialized clothing are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(b) Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.

(c) The department requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

(d) The department may require a second opinion from a department selected provider that meets the criteria in subsection (1)(c) of this section.

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1910 Are there limitations to the specialized psychiatric services I can receive?** (1) Clinical and support needs for specialized psychiatric services are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Specialized psychiatric services are excluded if they are available through other medicaid programs.

(3) DDA and the treating professional will determine the need and amount of service you will receive in the IFS, basic plus, core, CIIBS, and CP waivers, subject to the limitations in subsection (4) of this section.

~~((2))~~ (4) The dollar ~~((limitations))~~ amounts for aggregate service in your Basic Plus waiver or the dollar amount of your annual allocation in your IFS waiver limit the amount of specialized psychiatric services you are authorized to receive. unless provided as a behavioral health stabilization service.

~~((3))~~ (5) Specialized psychiatric services require prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-2000 What is staff/family consultation and training?** (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all DDA HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the ~~((individual waiver))~~ person-centered service plan/individual support plan, including:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support;
- (e) Augmentative communication systems;
- (f) Diet and nutritional guidance;
- (g) Disability information and education;
- (h) Strategies for effectively and therapeutically interacting with the participant;
- (i) Environmental consultation; and
- (j) For the IFS and CIIBS waivers only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-2005 Who is a qualified provider of staff/family consultation and training?** To provide staff/family consultation and training, a provider must be one of the following licensed, registered or certified professionals and be contracted with DDA:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech/language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American sign language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with the requirements of chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the National Council for Therapeutic Recreation;
- (17) Providers listed in WAC 388-845-0506 and contracted with DDA to provide CIIBS intensive services;
- (18) Certified music therapist (for CIIBS only); ~~((or))~~
- (19) Psychiatrist; or
- (20) Professional advocacy organization.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-2010 Are there limitations to the staff/family consultation and training I can receive?** (1) Clinical and support needs for staff/family consultation and training are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are

excluded as a service under staff/family consultation and training.

~~((2)) (3) ((Staff/family consultation and training require prior approval by the DDA regional administrator or designee.)) The dollar amounts for aggregate service in your basic plus waiver or the dollar amount of the annual allocation in your IFS waiver limit the amount of staff/family consultation and training you may receive.~~

~~((3) The dollar limitations for aggregate services in your Basic Plus waiver limit the amount of service you may receive.))~~

#### NEW SECTION

**WAC 388-845-2130 What are supported parenting services?** (1) Supported parenting services are professional services offered to participants who are parents or expectant parents.

(2) Services may include teaching, parent coaching, and other supportive strategies in areas critical to parenting, including child development, nutrition and health, safety, childcare, money management, time and household management, and housing.

(3) Supported parenting services are designed to build parental skills around the child's developmental domains of cognition, language, motor, social-emotional, and self-help.

(4) Supported parenting services are offered in the IFS waiver.

#### NEW SECTION

**WAC 388-845-2135 Who are qualified providers of supported parenting services?** Qualified providers of supported parenting services must:

(1) Have an understanding of individual learning styles related to child development and family dynamics;

(2) Have skills in child development and family dynamics;

(3) Have a supported parenting contract with DDA; and

(4) Be one or more of the following licensed, registered or certified professionals:

(a) Audiologist;

(b) Licensed practical nurse;

(c) Marriage and family therapist;

(d) Mental health counselor;

(e) Occupational therapist;

(f) Physical therapist;

(g) Registered nurse or licensed practical nurse;

(h) Speech/language pathologist;

(i) Social worker;

(j) Psychologist;

(k) Certified american sign language instructor;

(l) Nutritionist;

(m) Counselors registered or certified in accordance with the requirements of chapter 18.19 RCW;

(n) Certified dietician;

(o) Recreation therapist registered in Washington and certified by the National Council for Therapeutic Recreation;

(p) Psychiatrist;

(q) Professional advocacy organization.

**Reviser's note:** The typographical 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.

#### NEW SECTION

**WAC 388-845-2140 Are there any limitations on my receipt of supported parenting services?** The following limitations apply to your receipt of supported parenting services:

(1) Clinical and support needs for supported parenting services are identified in your DDA assessment and documented in your person-centered service plan/individual support plan;

(2) The dollar amount of your annual allocation in your IFS waiver limit the amount of supported parenting service you are authorized to receive.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-2160 What is therapeutic equipment and supplies?** (1) Therapeutic equipment and supplies are only available in the CIIBS and IFS waivers.

(2) Therapeutic equipment and supplies are equipment and supplies that are necessary to implement a behavioral support plan or other therapeutic plan, designed by an appropriate professional, such as a sensory integration or communication therapy plan, and necessary in order to fully implement the therapy or intervention.

(3) Included are items such as a weighted blanket, supplies that assist to calm or redirect the ~~((child))~~ individual to a constructive activity, or a vestibular swing.

AMENDATORY SECTION (Amending WSR 12-16-095, filed 8/1/12, effective 9/1/12)

**WAC 388-845-2170 Are there limitations on my receipt of therapeutic equipment and supplies?** The following limitations apply to your receipt of therapeutic equipment and supplies under the CIIBS and IFS waivers:

(1) Therapeutic equipment and supplies may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.

(2) The department does not pay for experimental equipment and supplies.

(3) The department requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

(4) The department may require a written second opinion from a department selected professional that meets the same criteria in subsection (3) of this section.

(5) The dollar amount of your annual allocation in your IFS waiver limits the amount of therapeutic equipment and supplies you are authorized to receive.

(6) Therapeutic equipment and supplies requires a prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-2210 Are there limitations to the transportation services I can receive?** The following limitations apply to transportation services:

~~(1) ((Transportation to/from medical or medically related appointments is a medicaid transportation service and is to be considered and used first.~~

~~(2) Support needs for transportation services are identified in your DDA assessment and documented in your person-centered service plan/individual support plan.~~

~~(3) Transportation is offered in addition to medical transportation but cannot replace medicaid transportation services.~~

~~(4)) Support needs for transportation services are identified in your DDA assessment and documented in your person-centered service plan/individual support plan.~~

(2) Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.

~~((4)) (3) Transportation does not include the purchase of a bus pass.~~

~~((5)) (4) Reimbursement for provider mileage requires prior ((approval)) authorization by DDA and is paid according to contract.~~

~~((6)) (5) This service does not cover the purchase or lease of vehicles.~~

~~((7)) (6) Reimbursement for provider travel time is not included in this service.~~

~~((8)) (7) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.~~

~~((9)) (8) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.~~

~~((10)) (9) The dollar limitations for aggregate services in your Basic Plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.~~

~~((11) Transportation services require prior approval by the DDA regional administrator or designee.)~~

~~((12)) (10) If your individual waiver personal care provider uses his/her own vehicle to provide transportation to you for essential shopping and medical appointments as a part of your personal care service, your provider may receive up to ((sixty)) one hundred miles per month in mileage reimbursement. If you work with more than one individual personal care provider, your limit is still a total of ((sixty)) one hundred miles per month. This cost is not counted toward the dollar limitation for aggregate services in the Basic Plus waiver.~~

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 10-22-088, filed 11/1/10, effective 12/2/10)

**WAC 388-845-2260 What are vehicle modifications?** ~~((This service is only available in the CHBS waiver.)) (1) Vehicle modifications are adaptations or alterations to a vehi-~~

cle required in order to accommodate the unique needs of the individual, enable full integration into the community, and ensure the health, welfare, and safety of the ~~((individual)) participant and/or ~~((family members)) caregivers.~~~~

(2) Vehicle modifications require prior approval from the DDA regional administrator or designee.

(3) Examples of vehicle modifications include:

(a) Manual hitch-mounted carrier and hitch for all wheel-chair types;

(b) Wheelchair cover;

(c) Wheelchair strap-downs;

(d) Portable wheelchair ramp;

(e) Accessible running boards and steps;

(f) Assist poles and/or grab handles.

(g) Power activated carrier for all wheelchair types;

(h) Permanently installed wheelchair ramps;

(i) Repairs and maintenance to vehicular modifications as needed for client safety; and

(j) Other access modifications.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-2270 Are there limitations to my receipt of vehicle modification services?** Vehicle modification services are only available on the CIIBS or IFS waiver. The following limitations apply ~~((to your receipt of vehicle modifications under the CHBS waiver)):~~

~~((Prior approval by the regional administrator or designee is required.)) Clinical and support needs for vehicle modification services are identified in your DDA assessment and documented in the person-centered service plan/individual support plan.~~

(2) Vehicle modifications are excluded if they are of general utility without direct medical or remedial benefit to ~~((the individual)) you.~~

(3) If you are eligible for or enrolled with division of vocational rehabilitation (DVR) you must pursue this benefit through DVR first.

(4) Vehicle modifications must be the most cost effective modification based upon a comparison of contractor bids as determined by DDA.

~~((4)) (5) Modifications will only be approved for a vehicle that serves as ~~((the participant's)) your primary means of transportation and is owned by the participant and/or family.~~~~

~~((5 The department)) (6) DDA requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.~~

~~((6)) (7) The department may require a second opinion from a department selected provider that meets the same criteria as subsection ~~((5)) (6) of this section.~~~~

(8) The dollar amount for your annual allocation in your IFS waiver limits the amount of vehicle modification service you are authorized to receive.

**Reviser's note:** The typographical 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 WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3000 What is the process for determining the services I need?** Your service needs are determined through the DDA assessment and the service planning process as defined in chapter 388-828 WAC. Only identified health and welfare needs will be authorized for payment in the ((ISP)) person-centered service plan/individual support plan.

(1) You receive an initial and annual assessment of your needs using a department-approved form.

(a) You meet the eligibility requirements for ICF/IID level of care.

(b) The "comprehensive assessment reporting evaluation (CARE)" tool will determine your eligibility and amount of personal care services.

(c) If you are in the Basic Plus, CIIBS, or Core waiver, the DDA assessment will determine the amount of respite care available to you.

(2) From the assessment, DDA develops your waiver person-centered service plan/individual support plan (ISP) with you and/or your legal representative and others who are involved in your life such as your parent or guardian, advocate and service providers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3055 What is a waiver person-centered service plan/individual support plan (ISP)?** (1) The person-centered service plan/individual support plan (ISP) is the primary tool DDA uses to determine and document your needs and to identify the services to meet those needs.

(2) Your person-centered service plan/ISP must include:

(a) Your identified health and welfare needs;

(b) Both paid and unpaid services and supports approved to meet your identified health and welfare needs as identified in WAC 388-828-8040 and 388-828-8060; and

(c) How often you will receive each waiver service; how long you will need it; and who will provide it.

(3) For ((an initial)) any person-centered service plan/ISP, you or your legal representative must sign ((or give verbal consent to)) the plan indicating your agreement to the receipt of services.

(4) ((For a reassessment or review of your ISP, you or your legal representative must sign or give verbal consent to the plan indicating your agreement to the receipt of services.

(5)) You may choose any qualified provider for the service, who meets all of the following:

(a) Is able to meet your needs within the scope of their contract, licensure and certification;

(b) Is reasonably available;

(c) Meets provider qualifications in chapters 388-845 and 388-825 WAC for contracting; and

(d) Agrees to provide the service at department rates.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3056 What if I need assistance to understand my person-centered service plan/individual support plan?** If you are unable to understand your person-centered service plan/individual support plan and the individual who has agreed to provide assistance to you as your necessary supplemental accommodation representative is unable to assist you with understanding your individual support plan, DDA will take the following steps:

(1) Consult with the office of the attorney general to determine if you require a legal representative or guardian to assist you with your individual support plan.

(2) Continue your current waiver services.

(3) If the office of the attorney general or a court determines that you do not need a legal representative, DDA will continue to try to provide necessary supplemental accommodations in order to help you understand your person-centered service plan/individual support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3060 When is my person-centered service plan/individual support plan effective?** Your person-centered service plan/individual support plan is effective the last day of the month in which DDA signs and dates it, ((after a signature or consent is obtained.))

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3061 Can a change in my person-centered service plan/individual support plan be effective before I sign it?** If you verbally request a change in service to occur immediately, DDA can sign the person-centered service plan/individual support plan and approve it prior to receiving your signature.

(1) Your person-centered service plan/individual support plan will be mailed to you for signature.

(2) You retain the same appeal rights as if you had signed the person-centered service plan/individual support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3062 Who is required to sign ((or give verbal consent to)) the person-centered service plan/individual support plan?** (1) If you do not have a legal representative, you must sign ((or give verbal consent to)) the person-centered service plan/individual support plan.

(2) If you have a legal representative, your legal representative must sign ((or give verbal consent to)) the person-centered service plan/individual support plan.

(3) If you need assistance to understand your person-centered service plan/individual support plan, DDA will follow the steps outlined in WAC 388-845-3056 (1) and (3).

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3063 Can my person-centered service plan/individual support plan be effective before the end of the month?** You may request to DDA to have your person-centered service plan/individual support plan effective prior to the end of the month. The effective date will be the date DDA signs and dates it. ~~((after receiving your signature or verbal consent.))~~

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

**WAC 388-845-3065 How long is my plan effective?** Your person-centered service plan/individual support plan is effective through the last day of the twelfth month following the effective date or until another ISP is completed, whichever occurs sooner.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3070 What happens if I do not sign ~~((or verbally consent to))~~ my person-centered service plan/individual support plan (ISP)?** If DDA is unable to obtain the necessary signature ~~((or verbal consent))~~ for an initial, reassessment or review of your person-centered service plan/individual support plan (ISP), DDA will take one or more of the following actions:

(1) If this person-centered service plan/individual support plan is an initial plan, DDA will be unable to provide waiver services. DDA will not assume consent for an initial plan and will follow the steps described in WAC 388-845-3056 (1) and (3).

(2) If this person-centered service plan/individual support plan is a reassessment or review ~~((and you are able to understand your ISP))~~:

(a) DDA will continue providing services as identified in your most current ISP until the end of the ten-day advance notice period as stated in WAC 388-825-105.

(b) ~~((At the end of the ten-day advance notice period, unless you file an appeal, DDA will assume consent and implement the new ISP without the required signature or verbal consent as defined in WAC 388-845-3062 above))~~ Your complete person-centered service plan/individual support plan is sent to you for signature after DDA signs and dates it. If your signed ISP is not returned to DDA within two months of your assessment completion, DDA will terminate your services.

(3) If this person-centered service plan/individual support plan is a reassessment or review and you are not able to understand your ISP, DDA will continue your existing services and take the steps described in WAC 388-845-3056.

(4) You will be provided written notification and appeal rights to this action to implement the new ISP.

(5) Your appeal rights are in WAC 388-845-4000 and 388-825-120 through 388-825-165.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3075 What if my needs change?** You may request a review of your person-centered service plan/individual support plan at any time by calling your case manager. If there is a significant change in your condition or circumstances, DDA must reassess your person-centered service plan/individual support plan with you and amend the plan to reflect any significant changes. This reassessment does not affect the end date of your annual person-centered service plan/individual support plan.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-3085 What if my needs exceed what can be provided under the IFS, CIIBS, Core or Community Protection waiver?** (1) If you are on the IFS, CIIBS, Core or Community Protection waiver and your assessed need for services exceeds the scope of services provided under your waiver, DDA will make the following efforts to meet your health and welfare needs:

(a) Identify more available natural supports;

(b) Initiate an exception to rule to access available non-waiver services not included in the IFS, CIIBS, Core or Community Protection waiver other than natural supports;

(c) Offer you the opportunity to apply for an alternate waiver that has the services you need, subject to WAC 388-845-0045;

(d) Offer you placement in an ICF/IID.

(2) If none of the above options is successful in meeting your health and welfare needs, DDA may terminate your waiver eligibility.

(3) If you are terminated from a waiver, you will remain eligible for nonwaiver DDA services but access to state-only funded DDA services is limited by availability of funding.

## WSR 16-10-021

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed April 25, 2016, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-20-015.

Title of Rule and Other Identifying Information: The department is proposing to create a new WAC chapter including new WAC sections as chapter 388-829R WAC, Overnight planned respite services. The department also proposes to amend two existing sections in chapter 388-845 WAC, DDA home and community-based services waivers.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit>)

driving-directions-office-bldg-2), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 21, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by June 8, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2015-2017 biennium budgets provided funding to develop eight community respite beds for adults with developmental disabilities for the provision of short-term community-based planned respite services across the state as an alternative to using respite services in an institutional setting. Additionally, the budget funded eight enhanced respite beds across the state for children for the purpose of providing families and caregivers a break and an opportunity for behavioral stabilization for children. Without these services some families may be unable to continue to care for their children in their own homes and out-of-home placements could be necessary. These provisions may be found on pages 63 and 64 of ESSB 6052 S.L.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: ESSB 6052 S.L.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sandra Miller, Developmental Disabilities Administration, P.O. Box 45310, Olympia, 98504-5310, (360) 725-3429.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not impact small business or nonprofits, they only impact DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules do not meet the definition of a "significant legislative rule" under RCW 34.05.328 (5)(c)(iii) because they do not impose penalties or sanctions, affect a license or permit, or create or amend a policy or regulatory program.

April 21, 2016  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1610 Where can respite care be provided?** (1) Respite care can be provided in the following location((+)):

- (a) Individual's home or place of residence;
- (b) Relative's home;
- (c) Licensed children's foster home;

- (d) Licensed, contracted and DDA certified group home;
  - (e) Licensed assisted living facility contracted as an adult residential center;
  - (f) Adult residential rehabilitation center;
  - (g) Licensed and contracted adult family home;
  - (h) Children's licensed group home, licensed staffed residential home, or licensed childcare center;
  - (i) Other community settings such as camp, senior center, or adult day care center((-)); and
  - (j) Certified overnight planned respite services home.
- (2) Additionally, your respite care provider may take you into the community while providing respite services.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1615 Who are qualified providers of respite care?** Providers of respite care can be any of the following individuals or agencies contracted with DDA for respite care:

- (1) Individuals meeting the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies, licensed under chapter 246-335 WAC, Part 1;
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;
- (4) Licensed and contracted adult family homes;
- (5) Licensed and contracted adult residential care facilities;
- (6) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;
- (7) Licensed child care centers under chapter 170-295 WAC;
- (8) Licensed child day care centers under chapter 170-295 WAC;
- (9) Adult day care providers under chapter 388-71 WAC contracted with DDA;
- (10) Certified provider under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services; ((+))
- (11) Certified overnight planned respite services providers under chapter 388-829R WAC; or
- (12) Other DDA contracted providers such as community center, senior center, parks and recreation, summer programs.

### Chapter 388-829R WAC

#### OVERNIGHT PLANNED RESPITE SERVICES

#### NEW SECTION

**WAC 388-829R-005 What definitions apply to this chapter?** The following definitions apply to this chapter:

"Adult protective services" or "APS" means the investigative body designated by the aging and long term care services administration (AL TSA) to investigate suspected cases of abandonment, abuse, financial exploitation, and neglect as defined in chapter 74.34 RCW.

"Authorization" means DDA approval of funding for a service as identified in the individual support plan or evidence of payment for a service.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(5) and who the administration has determined eligible to receive services under chapter 71A.16 RCW. When used in this section, "you" is interchangeable with client.

"DDA" or "the administration" means the developmental disabilities administration, an administration of the department of social and health services and its employees and authorized agents.

"DSHS" or "the department" means the state of Washington department of social and health services and its employees and authorized agents.

"Family" means relatives who live in the same home with the eligible client. Relatives include spouse or registered domestic partner, natural, adoptive, or stepparent, grandparent, child, stepchild, sibling, stepsibling, uncle, aunt, first cousin, niece, or nephew.

"Mandatory reporter" means any person working with vulnerable adults required to report suspected incidents of abandonment, abuse, neglect, financial exploitation under chapter 74.34 RCW.

"NA-R" means nursing assistant-registered under chapter 18.88A RCW.

"NA-C" means nursing assistant-certified under chapter 18.88A RCW.

"Overnight planned respite services" means services that are intended to provide short-term intermittent relief for persons who live with the DDA client as the primary care provider and are either a family member who is paid or unpaid or a non-family member who is not paid. These services also provide the opportunity for the client to receive support, care, and engagement in the community.

"Overnight planned respite services provider," "service provider" and "provider" means a provider that is contracted to provide overnight planned respite services.

"Registered nurse delegation" means the process by which a registered nurse transfers the performance of selected nursing tasks to a NA-R or NA-C in selected situations as set forth in chapter 18.79 RCW and WAC 246-840-910 through 246-840-970).

#### NEW SECTION

**WAC 388-829R-010 What is the purpose of this chapter?** This chapter establishes rules for clients and providers regarding overnight planned respite services administered by DDA.

#### NEW SECTION

**WAC 388-829R-015 What conditions must be met to be eligible to receive overnight planned respite services?**

(1) Recipients of overnight planned respite services must meet the following conditions at a minimum:

(a) Have been determined eligible for DDA services per chapter 388-823 WAC;

(b) Be at least eighteen years of age; and

(c) Live at home with primary care providers who are paid or unpaid family members or non-family members who are not paid to provide care for you.

(2) The adult respite services committee will consider the following factors when reviewing requests for services:

(a) Whether the recipient's needs can be safely met in the respite setting;

(b) Whether there are available vacancies within ninety days of requested dates; and

(c) Whether the stay will reduce utilization of residential habilitation centers for respite.

#### NEW SECTION

**WAC 388-829R-016 How do I access overnight planned respite services?** (1) Your case resource manager will assist you with completing a brief application and ensure overnight planned respite services are included in your individual support plan.

(2) Upon approval for services, you will work with the provider to complete an individual respite services agreement that outlines agreed support needs and activities prior to your stay.

#### NEW SECTION

**WAC 388-829R-017 Who are the qualified providers of overnight planned respite services?** Qualified providers must be certified by and contracted with DDA to provide overnight planned respite.

#### NEW SECTION

**WAC 388-829R-018 What are the time limitations of overnight planned respite services?** Overnight planned respite services may not exceed fourteen days in a calendar year.

#### NEW SECTION

**WAC 388-829R-020 What are the responsibilities of an overnight planned respite services provider?** An overnight planned respite services provider must:

(1) Meet the requirements of this chapter and its contract;

(2) Deliver the service on the dates approved by the administration;

(3) Provide supports and services outlined in the individual respite services agreement;

(4) Provide adequate staff to administer the program and meet the needs of clients;

(5) Ensure that clients have immediate access to staff or the means to contact staff at all times; and

(6) Retain all records and other material related to the services contract for six years after expiration of the contract.

#### NEW SECTION

**WAC 388-829R-025 What requirements must an agency meet to contract with DDA to provide overnight planned respite services?** To be eligible to contract with



DDA to provide overnight planned respite services, an agency:

- (1) Must be certified by the DDA to perform the duties of overnight planned respite service;
- (2) Must be approved as a contractor by the department; and
- (3) Providing respite to more than one client per respite home is prohibited.

#### NEW SECTION

**WAC 388-829R-030 Are the rules in chapter 388-113 and 388-825 regarding background checks applicable to providers of overnight planned respite services?** Yes. The rules in chapter 388-113 and 388-825 regarding background checks are applicable to providers of overnight planned respite services.

#### NEW SECTION

**WAC 388-829R-035 What will disqualify overnight planned respite services providers from working in a capacity that may involve access to individuals with a developmental disability?** Criminal convictions and pending charges that disqualify overnight planned respite services providers and their employees and volunteers from working with individuals with a developmental disability are listed in chapter 388-113 WAC. Individuals employed by overnight planned respite services providers who receive a DSHS background check with disqualifying results are prohibited from any access to DDA clients.

#### NEW SECTION

**WAC 388-829R-060 What are the minimum requirements for overnight planned respite services providers?** Overnight planned respite services providers must at a minimum:

- (1) Have a high school diploma or GED equivalent, unless hired before September 1, 1991;
- (2) Be at least eighteen years of age when employed as a direct care staff, or at least twenty-one years of age when employed as an administrator;
- (3) Have a clear understanding of job responsibilities and knowledge of individual support plans and client needs;
- (4) Have a current background check as required by WAC 388-829R-030; and
- (5) Be able to:
  - (a) Read, understand, and provide services outlined in the individual support plan (ISP) and individual respite services agreement;
  - (b) Reasonably accommodate the client's individual preferences;
  - (c) Know the community resources, such as medical facilities, emergency resources, and recreational opportunities;
  - (d) Enable the client to keep in touch with family and friends in a way preferred by the client;
  - (e) Protect the client's financial interests;
  - (f) Fulfill reporting requirements as required in this chapter and the overnight planned respite services contract;

(g) Know how and when to contact the client's representative and case manager; and

(h) Successfully complete the training required in this chapter.

#### NEW SECTION

**WAC 388-829R-065 What training requirements must overnight planned respite services staff meet?** Overnight planned respite services provider staff must meet all training and certification requirements that apply to community residential service businesses in accordance with chapter 388-829 WAC. The provider must document that its staff has met these requirements and make this documentation available for DDA.

#### NEW SECTION

**WAC 388-829R-070 What policies and procedures must overnight planned respite services providers have?**

(1) Overnight planned respite services providers must develop and implement policies and procedures that address:

- (a) Client rights, including a client's right to file a complaint or suggestion without interference;
- (b) Reporting requirements for suspected abuse, neglect, financial exploitation, or abandonment;
- (c) Client protections when there have been allegations of abuse, neglect, financial exploitation, or abandonment;
- (d) Emergent situations that may pose a danger or risk to the client or others;
- (e) Response to a missing person and other client emergencies;
- (f) Emergency response plans for natural or other disasters;
- (g) Client access to medical, mental health, and law enforcement resources for clients;
- (h) Notification to client's legal representative or relatives in case of emergency;
- (i) Client grievances;
- (j) Appropriate response and supports for clients who engage in aggressive or assaultive behavior; and
- (k) All aspects of medication management including but not limited to:
  - (i) Supervision of medication;
  - (ii) Client refusal;
  - (iii) Services related to medications and treatments provided under the delegation of a registered nurse consistent with chapter 246-840 WAC;
  - (iv) The monitoring of a client who self-administers medication;
  - (v) Medication assistance for clients who need support; and
  - (vi) What the service provider will do in the event it becomes aware that a client is no longer safe to take his or her own medications.

(2) The service provider must train staff on its policies and procedures, maintain current written policies and procedures, and make them accessible to all staff and available to clients and legal representatives upon request.

NEW SECTION

**WAC 388-829R-075 What are the requirements for an individual respite services agreement?** (1) Overnight planned respite services providers must develop an individual respite services agreement with the client's paid or unpaid caregiver at least three business days prior to the client's placement.

(2) The individual respite services agreement must outline supports and services to be provided during the respite stay.

NEW SECTION

**WAC 388-829R-080 What services and activities must be a part of overnight planned respite services?** The overnight planned respite services provider must provide the following services and activities at no cost to the client:

- (1) Support staff available twenty-four hours per day for each day of the respite stay as determined in the individual respite services agreement to meet the client's needs as identified in the client's assessment;
- (2) A furnished home environment including a private, furnished bedroom for the respite client;
- (3) An accessible site for clients with physical disabilities;
- (4) Three nutritious meals and two snacks per day;
- (5) Bedding and towels;
- (6) Access to laundry facilities;
- (7) Access to a telephone for local calls;
- (8) Medication monitoring, assistance and administration as needed;
- (9) Instruction and support services identified in the client's individual respite services agreement;
- (10) Transportation as identified in the individual respite services agreement;
- (11) Supports for performing personal hygiene routines and activities of daily living as identified in the individual respite service agreement and individual support plan; and
- (12) Activities within the home and community as outlined in the individual respite services agreement.

NEW SECTION

**WAC 388-829R-085 Are overnight planned respite providers responsible to transport a client?** (1) The client and client's family are responsible for transportation to and from the respite services.

(2) The overnight planned respite services provider is responsible to ensure that the client's transportation needs are met during the respite stay as identified in the client's individual respite services agreement.

NEW SECTION

**WAC 388-829R-090 What requirements must be met before an overnight planned respite provider transports a client?** Before transporting a client, overnight planned respite services providers must:

- (1) Carry automobile insurance per chapter 46.30 RCW; and

- (2) Have a valid driver's license per chapter 46.20 RCW.

NEW SECTION

**WAC 388-829R-110 What health care assistance must an overnight planned respite provide a client?** The overnight planned respite services provider must provide the client the following health care assistance:

- (1) Observe the client for changes in health, take appropriate action, and respond to emergencies;
- (2) Manage medication assistance per chapter 246-888 WAC and administration per WAC 246-840-910 to 246-840-970 and DDA residential medication management requirements specified in the overnight planned respite services contract;
- (3) Assist the client with any medical treatment prescribed by health professionals that does not require registered nurse delegation or professionally licensed services;
- (4) Communicate directly with health professionals when needed; and
- (5) Provide a balanced, nutritional diet.

NEW SECTION

**WAC 388-829R-115 How may an overnight planned respite services provider assist a client with medication?**

(1) An overnight planned respite services provider may only provide medication assistance per chapter 246-888 WAC if the client meets the following criteria:

- (a) Is able to put the medication into his or her mouth, apply, or instill the medication; and
- (b) Is aware that he or she is receiving medication.

(2) An overnight planned respite services provider may provide specific medication assistance tasks as described under chapter 246-888 WAC as follows:

<b>Medication Assistance Task</b>	<b>May an overnight planned respite services provider complete this task if the client meets both criteria in subsections (1)(a) and (b) of this section?</b>
Remind or coach the client to take his or her medication.	Yes
Open the medication container.	Yes
Hand client the medication container.	Yes
Place medication in the client's hand.	Yes
Transfer medication from a container to another device for the purpose of an individual dose (e.g., pouring liquid medication from a container to a calibrated	Yes

Medication Assistance Task	May an overnight planned respite services provider complete this task if the client meets both criteria in subsections (1)(a) and (b) of this section?
spoon, medication cup or adaptive device.	
Alter a medication by crushing or mixing, or similar alterations.	Yes, if the client is aware that the medication has been altered or added to food or beverage. A pharmacist or other qualified practitioner must determine it is safe to alter a medication and this must be documented on the prescription container or in the client's record.
Handing the client a pre-filled insulin syringe.	Yes, but the client must be able to inject the insulin by him or herself.
Guide or assist client to apply or instill skin, nose, eye and ear preparations.	Yes, but hand-over-hand administration is not allowed.
Assistance with injectable or IV medication.	No, this is not allowed.
Hand-over-hand assistance with medication.	No, may only be done under nurse delegation.
Assistance with medication beyond the examples provided in this chart.	No, may only be done by a licensed professional within the scope of their license or under registered nurse delegation.

**NEW SECTION**

**WAC 388-829R-120 What is required for an overnight planned respite services provider to administer medication and provide delegated nursing tasks?** Before overnight planned respite services providers may administer medication or provide nursing tasks for their clients, they must meet one of the following requirements:

- (1) Be a registered nurse (RN) or licensed practical nurse (LPN); or
- (2) Be delegated to perform nursing care tasks by a registered nurse.

**Reviser's note:** The typographical 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.

**NEW SECTION**

**WAC 388-829R-125 What is required for an overnight planned respite services provider to perform nursing tasks under the registered nurse delegation program?**

In order to be delegated to perform nursing tasks, an overnight planned respite services provider must:

- (1) Receive client-specific training from the delegating registered nurse; and
- (2) Verify with the registered nurse delegator that it has complied with chapter 18.79 RCW and WAC 246-840-910 through 246-840-990 by providing the registered nurse delegator with proof of:
  - (a) A current NA-R or NA-C registration or certification as a home care aide (HCA-C) without restriction, or a certification showing completion of the "nurse delegation for nursing assistants" class; and
  - (b) A certification of completion of the "nurse delegation training: special focus on diabetes" class when the provider anticipates that the NA-R, NA-C or HCA-C may be administering insulin injections under nurse delegation; or a certification showing completion of "fundamentals of caregiving" if the overnight planned respite services provider is an NA-R.

**NEW SECTION**

**WAC 388-829R-130 When is an overnight planned respite services provider not allowed to perform nursing tasks?** (1) An overnight planned respite services provider is prohibited from performing delegated nursing tasks for a client if it has not complied with the requirements in WAC 388-829R-125.

- (2) An overnight planned respite services provider may not offer support to a client whose needs it is unable to meet.
- (3) If the overnight planned respite services provider is not eligible to perform nursing tasks, a legally authorized person such as an RN or LPN must perform the task.

**NEW SECTION**

**WAC 388-829R-135 What records must the overnight planned respite services provider keep regarding registered nurse delegation?** (1) The overnight planned respite services provider must keep the following records when participating in registered nurse delegation:

- (a) Written instructions for performing the delegated task from the delegating RN;
  - (b) The most recent six months of documentation showing that the task was performed; and
  - (c) Validation of nursing assistant registrations or certifications.
- (2) These records must be accessible to the delegating nurse at all times.

**NEW SECTION**

**WAC 388-829R-140 Where must overnight planned respite services be provided?** Overnight planned respite services providers must provide overnight planned respite services in a single person residence maintained and furnished by the provider.

**NEW SECTION**

**WAC 388-829R-145 How must overnight planned respite services providers regulate the water temperature**

**at their residence?** (1) Overnight planned respite services providers must regulate the water temperature at their residence as follows:

(a) Maintain the water temperature in the household between one hundred five degrees and one hundred twenty degrees fahrenheit; and

(b) Check the water temperature at least every six months. The water temperature is best measured two hours after substantial hot water usage.

(2) The overnight planned respite services provider must document compliance with these requirements.

**Reviser's note:** The typographical 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.

#### NEW SECTION

**WAC 388-829R-150 What are the requirements for record entries?** (1) The overnight planned respite services provider must make entries at the time of or immediately following the event and maintain both the original and corrected entries when an error in the record is made.

(2) Written entries must be legible, in ink, and signed and dated.

(3) Electronic record entries must identify the date entry and the person who made the entry by his or her unique user ID.

#### NEW SECTION

**WAC 388-829R-155 Are client records considered confidential?** The overnight planned respite services provider must consider all client information privileged and confidential.

(1) Any transfer or inspection of records to parties other than DSHS must be authorized by DDA or through a release of information form that:

(a) Includes a specific description of the records the client consents to be released; and

(b) Is signed by the client or the client's legal representative.

(2) A signed release of information is valid for up to one year and must be renewed annually from the signature date.

#### NEW SECTION

**WAC 388-829R-160 How long must an overnight planned respite services provider keep client records?** An overnight planned respite services provider must keep a client's records for a period of six years from the end of the client's respite stay.

#### NEW SECTION

**WAC 388-829R-165 What must overnight planned respite services providers do to plan for and respond to emergencies?** (1) The overnight planned respite services provider must develop an emergency response plan to address natural and other disasters.

(2) In an emergency, the overnight planned respite services provider must:

(a) Immediately call 911 if it is a life threatening emergency;

(b) Provide emergency services;

(c) Notify DDA and the client's legal representative; and

(d) Submit a written report to DDA as required by the DDA residential reporting requirements specified in the overnight planned respite services contract.

#### NEW SECTION

**WAC 388-829R-170 What records must overnight planned respite services providers keep?** Overnight planned respite services providers must keep the following information:

(1) Client's name and address;

(2) Name, address, and telephone number of the client's relative or legal representative;

(3) A copy of the most recent ISP;

(4) A copy of the individual respite services agreement;

(5) Nurse delegation records;

(6) Water temperature monitoring records;

(7) Staff training records;

(8) Staff time sheets specific to locations worked;

(9) Payment records;

(10) Dates and times of service;

(11) Progress notes and incident reports;

(12) Medication intake records;

(13) A list of the client's personal property upon arrival and departure; and

(14) A record of money or gift cards managed by the respite provider on behalf of the client during the respite stay.

#### NEW SECTION

**WAC 388-829R-175 Are overnight respite services providers mandatory reporters?** (1) Yes. Overnight respite services providers are mandatory reporters. They are required to report all instances of suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults as defined in chapter 74.34 RCW.

(2) Overnight respite services providers must comply with DDA's residential reporting requirements specified in their contract.

(3) Providers must retain a signed copy of the DDA policy on residential reporting requirements specified in their contract and submit a signed copy of the policy to DDA.

#### NEW SECTION

**WAC 388-829R-180 How must overnight respite services providers report abuse and neglect?** Overnight respite services providers must immediately report suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults to:

(1) Adult protective services using the DSHS toll free telephone number, 1-866-END-HARM or 1-866-363-4276;

(2) DDA in compliance with the DDA residential reporting requirements as specified in the overnight planned respite services contract; and

(3) Law enforcement agencies as required under chapter 74.34 RCW, including when there is reason to suspect sexual or physical abuse.

#### NEW SECTION

**WAC 388-829R-185 Who oversees, monitors, and evaluates overnight planned respite services?** DDA oversees and monitors the overnight planned respite services provider. DDA will conduct an evaluation in the home where the respite is provided at least every twelve months.

#### NEW SECTION

**WAC 388-829R-190 How often must DDA evaluate overnight planned respite services providers?** (1) DDA must complete its initial evaluation within the first ninety days after the overnight planned respite services provider begins providing respite services.

(2) Following DDA's initial evaluation, it must evaluate the overnight planned respite services provider at least every twelve months.

(3) DDA may conduct additional reviews at its discretion.

#### NEW SECTION

**WAC 388-829R-195 How must the overnight planned respite services provider participate in the evaluation process?** The overnight planned respite services provider must participate in the evaluation process by:

(1) Allowing scheduled and unscheduled home visits by DDA staff and DDA contracted evaluators;

(2) Providing information and documentation as requested by DDA and DDA contracted evaluators; and

(3) Cooperating in setting up appointments with DDA and DDA contracted evaluators.

#### NEW SECTION

**WAC 388-829R-200 What occurs during the review and evaluation process?** During the review and evaluation process, DDA contracted evaluators will review compliance with this chapter and the DDA overnight planned respite services provider contract.

#### NEW SECTION

**WAC 388-829R-205 What happens if the overnight planned respite services provider is found to be out of compliance?** (1) If DDA finds in its evaluation that the overnight planned respite services provider is out of compliance with any part of this chapter or the DDA contract, the provider and DDA must develop a corrective action plan.

(2) The corrective action plan must:

(a) Outline methods for the provider to comply with the required corrections; and

(b) Provide a time frame for the provider to complete the corrective actions.

#### NEW SECTION

**WAC 388-829R-210 When may DDA stop the authorization for payment or terminate a contract for the services of an overnight planned respite services provider?** DDA may stop the authorization for payment or terminate a contract for the services of an overnight planned respite services provider when:

(1) The provider demonstrates inadequate performance or inability to deliver quality care that jeopardizes the client's health, safety, or well-being;

(2) The provider does not complete the corrective actions within the agreed upon time frame;

(3) The provider fails to comply with the requirements of this chapter or the overnight planned respite services provider contract; or

(4) DDA has a reasonable, good faith belief that the client's health, safety, or well-being is at risk.

#### NEW SECTION

**WAC 388-829R-215 May the overnight planned respite services provider request an administrative hearing to contest DDA's decision to stop payment or terminate its contract?** No. The overnight planned respite services provider may not contest the decision to stop payment or termination of the contract by administrative hearing. A client may challenge DDA's decision to deny a provider of choice.

### WSR 16-10-060

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed May 2, 2016, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-125.

Title of Rule and Other Identifying Information: The department is proposing to create WAC 388-97-1090 Direct care hours and amend WAC 388-97-0001 Definitions and 388-97-1080 Nursing services.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m., June 21, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by June 7, 2016, phone

(360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to assure compliance with requirements from recently passed legislation SB [SSB] 5600 and SHB 2678 (requirements originally passed through SHB 1274 and revised in SHB 2678 based on the outcome of a stakeholder workgroup).

Reasons Supporting Proposal: This amendment will align the rules with the recent changes to the statute in regards to the definitions related to vulnerable adults and staffing ratios in nursing homes.

Statutory Authority for Adoption: Chapters 18.51, 74.42 RCW.

Statute Being Implemented: SB [SSB] 5600, SHB 2678.

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

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

Name of Agency Personnel Responsible for Drafting: Amy Abbott, P.O. Box 45600, Olympia, WA 98513, (360) 725-2581; Implementation: Candace Goehring, P.O. Box 45600, Olympia, WA 98513, (360) 725-2401; and Enforcement: Bett Schlemmer, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), a small business economic impact statement is not required for rules adopting or incorporating, by reference without material change, Washington state statutes or federal statutes or regulations. This rule change is related to a change in chapter 74.42 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii), a cost-benefit analysis is not required for rules adopting or incorporating, by reference without material change, Washington state statutes or federal statutes or regulations. This rule change is related to a change in chapter 74.42 RCW.

April 27, 2016  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-14-027, filed 6/24/14, effective 7/25/14)

**WAC 388-97-0001 Definitions. "Abandonment"** means action or inaction by an individual or entity with a duty of care for a vulnerable adult that leaves the vulnerable individual without the means or ability to obtain necessary food, clothing, shelter, or health care.

**"Abuse"** means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of

restraint against a vulnerable adult which have the following meanings:

(1) **"Mental abuse"** means ~~((any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating,))~~ a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding~~((, or restraints including chemical restraints, unless the restraint is consistent with licensing requirements))~~.

(3) **"Sexual abuse"** means any form of nonconsensual sexual ~~((contact))~~ conduct, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual ~~((contact))~~ conduct may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual ~~((contact))~~ conduct between a staff person and a resident, whether or not it is consensual.

(4) **"Personal exploitation"** means an act of forcing, compelling, or exerting undue influence over a ~~((resident))~~ vulnerable adult causing the ~~((resident))~~ vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

(5) **"Improper use of restraint"** means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that:

(a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW;

(b) Is not medically authorized; or

(c) Otherwise constitutes abuse under this section.

**"Administrative hearing"** is a formal hearing proceeding before a state administrative law judge that gives:

(1) A licensee an opportunity to be heard in disputes about licensing actions, including the imposition of remedies, taken by the department; or

(2) An individual an opportunity to appeal a finding of abandonment, abuse, neglect, financial exploitation of a resident, or misappropriation of a resident's funds.

**"Administrative law judge (ALJ)"** means an impartial decision-maker who presides over an administrative hearing. ALJs are employed by the office of administrative hearings (OAH), which is a separate state agency. ALJs are not DSHS employees or DSHS representatives.

**"Administrator"** means a nursing home administrator, licensed under chapter 18.52 RCW, who must be in active administrative charge of the nursing home, as that term is defined in the board of nursing home administrator's regulations.

**"Advanced registered nurse practitioner (ARNP)"** means an individual who is licensed to practice as an advanced registered nurse practitioner under chapter 18.79 RCW.

**"Applicant"** means an individual, partnership, corporation, or other legal entity seeking a license to operate a nursing home.

**"ASHRAE"** means the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.

**"Attending physician"** means the doctor responsible for a particular individual's total medical care.

**"Berm"** means a bank of earth piled against a wall.

**"Chemical restraint"** means ~~(a psychopharmacologic drug that is used for discipline or convenience and is not required to treat the resident's medical symptoms)~~ the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

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

**"Civil fine"** is a civil monetary penalty assessed against a nursing home as authorized by chapters 18.51 and 74.42 RCW. There are two types of civil fines, "per day" and "per instance."

(1) **"Per day fine"** means a fine imposed for each day that a nursing home is out of compliance with a specific requirement. Per day fines are assessed in accordance with WAC 388-97-4580(1); and

(2) **"Per instance fine"** means a fine imposed for the occurrence of a deficiency.

**"Condition on a license"** means that the department has imposed certain requirements on a license and the licensee cannot operate the nursing home unless the requirements are observed.

**"Consent"** means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

**"Commuting distance radius"** means the one-way travel time between any two points traveling on the generally fastest route without any impediments such as traffic, road work, or road closure.

**"Deficiency"** is a nursing home's failed practice, action or inaction that violates any or all of the following:

(1) Requirements of chapters 18.51 or 74.42 RCW, or the requirements of this chapter; and

(2) In the case of a medicare and medicaid contractor, participation requirements under Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

**"Deficiency citation"** or **"cited deficiency"** means written documentation by the department that describes a nursing home's deficiency(ies); the requirement that the deficiency(ies) violates; and the reasons for the determination of noncompliance.

**"Deficient facility practice"** or **"failed facility practice"** means the nursing home action(s), error(s), or lack of action(s) that provide the basis for the deficiency.

**"Dementia care"** means a therapeutic modality or modalities designed specifically for the care of persons with dementia.

**"Denial of payment for new admissions"** is an action imposed on a nursing home (facility) by the department that prohibits payment for new medicaid admissions to the nursing home after a specified date. Nursing homes certified to provide medicare and medicaid services may also be subjected to a denial of payment for new admissions by the federal Centers for Medicare and Medicaid Services.

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

**"Department on-site monitoring"** means an optional remedy of on-site visits to a nursing home by department staff according to department guidelines for the purpose of monitoring resident care or services or both.

**"Dietitian"** means a qualified dietitian. A qualified dietitian is one who is registered by the American Dietetic Association or certified by the state of Washington.

**"Direct care staff"** are those individuals who, through interpersonal contact with residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Direct care staff does not include individuals whose primary duty is to maintain the long term care facility's physical environment, such as housekeeping.

**"Directly supervising"** means that the individual responsible for providing oversight to staff is on the premises and quickly and easily available to provide necessary assessments and other direct care of residents.

**"Disclosure statement"** means a signed statement by an individual in accordance with the requirements under RCW 43.43.834. The statement should include a disclosure of whether or not the individual has been convicted of certain crimes or has been found by any court, state licensing board, disciplinary board, or protection proceeding to have neglected, sexually abused, financially exploited, or physically abused any minor or adult individual.

**"Drug"** means a substance:

(1) Recognized as a drug in the official *United States Pharmacopoeia*, *Official Homeopathic Pharmacopoeia of the United States*, *Official National Formulary*, or any supplement to any of them; or

(2) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

**"Drug facility"** means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

**"Emergency closure"** is an order by the department to immediately close a nursing home.

**"Emergency transfer"** means immediate transfer of residents from a nursing home to safe settings.

**"Entity"** means any type of firm, partnership, corporation, company, association, or joint stock association.

**"Essential community provider"** means a nursing home, which is the only nursing home within a commuting distance radius of at least forty minutes duration, traveling by automobile.

**"Financial exploitation"** means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person or entity's profit or advantage other than the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020 ~~((6))~~(7).

**"Geriatric behavioral health worker"** means a person with a bachelor's or master's degree in social work, who has received specialized training devoted to mental illness and treatment of older adults.

**"Habilitative services"** means the planned interventions and procedures which constitute a continuing and comprehensive effort to teach an individual previously undeveloped skills.

**"Highest practicable physical, mental, and psychosocial well-being"** means providing each resident with the necessary individualized care and services to assist the resident to achieve or maintain the highest possible health, functional and independence level in accordance with the resident's comprehensive assessment and plan of care. Care and services provided by the nursing home must be consistent with all requirements in this chapter, chapters 74.42 and 18.51 RCW, and the resident's informed choices. For medicaid and medicare residents, care and services must also be consistent with Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

**"Informal department review"** is a dispute resolution process that provides an opportunity for the licensee or administrator to informally present information to a department representative about disputed, cited deficiencies. Refer to WAC 388-97-4420.

**"Inspection"** or **"survey"** means the process by which department staff evaluates the nursing home licensee's compliance with applicable statutes and regulations.

**"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)"** means an institution certified under chapter 42 C.F.R., Part 483, Subpart I, and licensed under chapter 18.51 RCW.

**"Large nonessential community providers"** means nonessential community providers, which have more than sixty licensed nursing home beds, even if some of those beds are not set up or are not in use.

**"License revocation"** is an action taken by the department to cancel a nursing home license in accordance with RCW 18.51.060 and WAC 388-97-4220.

**"License suspension"** is an action taken by the department to temporarily revoke a nursing home license in accordance with RCW 18.51.060 and this chapter.

**"Licensee"** means an individual, partnership, corporation, or other legal entity licensed to operate a nursing home.

**"Licensed practical nurse"** means an individual licensed to practice ~~((as a licensee))~~ practical nursing under chapter 18.79 RCW ~~((;)).~~

**"Mandated reporter"** as used in this chapter means any employee of a nursing home, any health care provider subject to chapter 18.130 RCW, the Uniform Disciplinary Act, and any licensee or operator of a nursing home. Under RCW 74.34.020, mandated reporters also include any employee of the department of social and health services, law enforcement officers, social workers, professional school personnel, individual providers, employees and licensees of assisted living ~~((facility))~~ facilities, adult family homes, soldiers' homes, residential habilitation centers, or any other facility licensed by the department, employees of social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agencies, county coroners or medical examiners, or Christian Science practitioners.

**"Mechanical restraint"** means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are:

(1) Medically authorized, as required; and

(2) Used in a manner that is consistent with federal or state licensing or certification requirements for facilities.

**"Misappropriation of resident property"** means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money.

**"NFPA"** means National Fire Protection Association, Inc.

**"Neglect":**

(1) In a nursing home licensed under chapter 18.51 RCW, neglect means:

~~((a))~~ (a) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or

(b) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(2) In a skilled nursing facility or nursing facility, neglect also means a failure to provide a resident with the goods and services necessary to avoid physical harm, mental anguish, or mental illness.

**"Noncompliance"** means a state of being out of compliance with state and/or federal requirements for nursing homes/facilities.

**"Nonessential community provider"** means a nursing home located within a commuting distance radius of less than forty minutes duration by automobile from another nursing home.

**"Nursing assistant"** means a nursing assistant as defined under RCW 18.88A.020 or successor laws.



**"Nursing facility (NF)" or "medicaid-certified nursing facility"** means a nursing home, or any portion of a hospital, veterans' home, or residential habilitation center, that is certified to provide nursing services to medicaid recipients under Section 1919(a) of the federal Social Security Act. All beds in a nursing facility are certified to provide medicaid services, even though one or more of the beds are also certified to provide medicare skilled nursing facility services.

**"Nursing home"** means any facility licensed to operate under chapter 18.51 RCW.

**"Officer"** means an individual serving as an officer of a corporation.

**"Owner of five percent or more of the assets of a nursing home"** means:

(1) The individual, and if applicable, the individual's spouse, who operates, or is applying to operate, the nursing home as a sole proprietorship;

(2) In the case of a corporation, the owner of at least five percent of the shares or capital stock of the corporation; or

(3) In the case of other types of business entities, the owner of a beneficial interest in at least five percent of the capital assets of an entity.

**"Partner"** means an individual in a partnership owning or operating a nursing home.

**"Permanent restraining order"** means a restraining order or order of protection issued either following a hearing, or by stipulation of the parties. A "permanent" order may be in force for a specific time period (for example, one year), after which it expires.

**"Person"** means any individual, firm, partnership, corporation, company, association or joint stock association.

**"Pharmacist"** means an individual licensed by the Washington state board of pharmacy under chapter 18.64 RCW.

**"Pharmacy"** means a place licensed under chapter 18.64 RCW where the practice of pharmacy is conducted.

**"Physical restraint"** (~~means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, and which restricts freedom of movement or access to the resident's body~~) means the application of physical force without the use of any device for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or holding a vulnerable adult's hand to safely escort him or her from one area to another.

**"Physician's assistant (PA)"** means a physician's assistant as defined under chapter 18.57A or 18.71A RCW or successor laws.

**"Plan of correction"** is a nursing home's written response to cited deficiencies that explains how it will correct the deficiencies and how it will prevent their reoccurrence.

**"Reasonable accommodation"** and **"reasonably accommodate"** has the meaning given in federal and state antidiscrimination laws and regulations. For the purpose of this chapter:

(1) Reasonable accommodation means that the nursing home must:

(a) Not impose admission criteria that excludes individuals unless the criteria is necessary for the provision of nursing home services;

(b) Make reasonable modification to its policies, practices or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the nursing home; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

**"Receivership"** is established by a court action and results in the removal of a nursing home's current licensee and the appointment of a substitute licensee to temporarily operate the nursing home.

**"Recurring deficiency"** means a deficiency that was cited by the department, corrected by the nursing home, and then cited again within fifteen months of the initial deficiency citation.

**"Registered nurse"** means an individual licensed to practice as a registered nurse under chapter 18.79 RCW.

**"Rehabilitative services"** means the planned interventions and procedures which constitute a continuing and comprehensive effort to restore an individual to the individual's former functional and environmental status, or alternatively, to maintain or maximize remaining function.

**"Resident"** generally means an individual residing in a nursing home. Except as specified elsewhere in this chapter, for decision-making purposes, the term "resident" includes the resident's surrogate decision maker acting under state law. The term resident excludes outpatients and individuals receiving adult day or night care, or respite care.

**"Resident care unit"** means a functionally separate unit including resident rooms, toilets, bathing facilities, and basic service facilities.

**"Respiratory isolation"** is a technique or techniques instituted to prevent the transmission of pathogenic organisms by means of droplets and droplet nuclei coughed, sneezed, or breathed into the environment.

**"Siphon jet clinic service sink"** means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inches in diameter.

**"Skilled nursing facility (SNF)" or "medicare-certified skilled nursing facility"** means a nursing home, a portion of a nursing home, or a long-term care wing or unit of a hospital that has been certified to provide nursing services to medicare recipients under Section 1819(a) of the federal Social Security Act.

**"Small nonessential community providers"** means nonessential community providers, which have sixty or fewer nursing home licensed beds, even if some of those beds are not set up or are not in use.

"**Social/therapeutic leave**" means leave which is for the resident's social, emotional, or psychological well-being; it does not include medical leave.

"**Staff work station**" means a location at which nursing and other staff perform charting and related activities throughout the day.

"**Stop placement**" or "**stop placement order**" is an action taken by the department prohibiting nursing home admissions, readmissions, and transfers of patients into the nursing home from the outside.

"**Substantial compliance**" means the nursing home has no deficiencies higher than severity level 1 as described in WAC 388-97-4500, or for medicaid certified facility, no deficiencies higher than a scope and severity "C."

"**Surrogate decision maker**" means a resident representative or representatives as outlined in WAC 388-97-0240, and as authorized by RCW 7.70.065.

"**Survey**" means the same as "**inspection**" as defined in this section.

"**Temporary manager**" means an individual or entity appointed by the department to oversee the operation of the nursing home to ensure the health and safety of its residents, pending correction of deficiencies or closure of the facility.

"**Temporary restraining order**" means restraining order or order of protection that expired without a hearing, was dismissed following an initial hearing, or was dismissed by stipulation of the parties before an initial hearing.

"**Termination**" means an action taken by:

(1) The department, or the nursing home, to cancel a nursing home's medicaid certification and contract; or

(2) The department of health and human services Centers for Medicare and Medicaid Services, or the nursing home, to cancel a nursing home's provider agreement to provide services to medicaid or medicare recipients, or both.

"**Toilet room**" means a room containing at least one toilet fixture.

"**Uncorrected deficiency**" is a deficiency that has been cited by the department and that is not corrected by the licensee by the time the department does a revisit.

"**Violation**" means the same as "**deficiency**" as defined in this section.

"**Volunteer**" means an individual who is a regularly scheduled individual not receiving payment for services and having unsupervised access to a nursing home resident.

"**Vulnerable adult**" includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; ((☞))

(2) Found incapacitated under chapter 11.88 RCW; ((☞))

(3) Who has a developmental disability as defined under RCW 71A.10.020; ((☞))

(4) Admitted to any facility(~~(, including any assisted living facility)~~); ((☞))

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; ((☞))

(6) Receiving services from an individual provider; or

(7) ~~((With a functional disability who lives in his or her own home, who is directing and supervising a paid personal~~

~~aide to perform a health care task as authorized by RCW))~~  
Who self directs his or her own care and receives services from a personal aide under chapter 74.39((-050)) RCW.

"**Whistle blower**" means a resident, employee of a nursing home, or any person licensed under Title 18 RCW, who in good faith reports alleged abandonment, abuse, financial exploitation, or neglect to the department, the department of health or to a law enforcement agency.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

**WAC 388-97-1080 Nursing services.** (1) The nursing home must ensure that a sufficient number of qualified nursing personnel are available on a twenty-four hour basis seven days per week to provide nursing and related services to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident as determined by resident assessments and individual plans of care.

(2) The nursing home must:

(a) Designate a registered nurse or licensed practical nurse to serve as charge nurse((-)) who is accountable for nursing services on each (~~(four of duty))~~ shift; and

(b) Have a full time director of nursing service who is a registered nurse.

(3) ~~((The nursing home must have:~~

~~(a) A registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week; and~~

~~(b) A registered nurse or licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week. "**Directly supervising**" means the supervising individual is on the premises and is quickly and easily available to provide necessary assessments and other direct care of residents; and oversight of supervised staff.))~~ Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(4) The department may permit limited exceptions to subsection (3) of this section if the facility can demonstrate good faith effort to hire a registered nurse for the last eight hours of required coverage per day. The department may not grant exceptions for coverage that is less than sixteen hours per day. When considering an exception, the department may consider the following:

(a) Wages and benefits offered by the facility; and

(b) The availability of registered nurses in the facility's geographical area.

(5) The department may grant a one-year exception that may be renewable for up to three consecutive years.

(6) If a registered nurse is not on-site and readily available to complete full assessments during the facility's exception period, the department may limit the admission of new residents based on the resident's medical conditions or complexities during this period.

(7) If the department grants an exception for a facility, the department must include this information in its nursing home locator.

(8) Essential community providers and small nonessential community providers must have a registered nurse on duty who directly supervises resident care a minimum of sixteen hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty who directly supervises resident care the remaining eight hours per day, seven days per week.

~~((each)) resident((s)) requests for assistance ((in a manner which promptly meets the quality of life and quality of care needs of all the residents))~~ (9) The nursing home must ensure that staff respond to resident(s) requests for assistance in a manner that promptly meets the resident's quality of life and quality of care needs.

~~((5))~~ (10) The director of nursing services is responsible for:

- (a) Coordinating the plan of care for each resident;
- (b) Ensuring that registered nurses and licensed practical nurses comply with chapter 18.79 RCW; and
- (c) Ensuring that the nursing care provided is based on the nursing process in accordance with nationally recognized and accepted standards of professional nursing practice.

#### NEW SECTION

**WAC 388-97-1090 Direct care hours** (1) Each nursing facility must provide a minimum of three hours and twenty-four minutes of direct care per resident day (HRD). Direct care means the staffing domain identified and defined in the center for medicare and medicaid services' payroll-based journal. To measure compliance with the minimum staffing standard, the direct care hours provided at the facility for each quarter will be divided by the total resident days at the facility for that quarter to calculate the hours of direct care per resident day provided by the facility.

(2) Each nursing facility must file reports with the department on direct care hours and resident census information. The reports must be made using the center for medicare and medicaid services' payroll-based journal and nursing home facility census and payroll data.

(3) The reports must be submitted within forty-five days after the end of each calendar quarter, and must be filed electronically.

(4) Unless the nursing facility reports otherwise, it will be presumed that all hours worked by direct care employees at the facility have been spent providing direct care. If any hours worked by direct care employees have not been spent providing direct care, the facility must adjust its report to reflect that.

(5) The department may use census and payroll data from facilities to perform enforcement audits.

(6) The department must monitor facility census information, reported staff hours, and payroll data to determine whether HRD figures are relatively constant throughout a quarter or are being increased at the end of the quarter through unusual spending on direct care.

(7) A facility may use the hours of geriatric behavioral health workers as defined under RCW 74.42.010 to meet this

section's direct care minimum staffing requirements, if it meets the following requirements:

(a) The worker must have at least three years experience providing care for individuals with chronic mental health issues, dementia, or intellectual and developmental disabilities in a long-term care or behavioral health care setting;

(b) The worker must have advanced practice knowledge in aging, disability, mental illness, Alzheimer's disease, and developmental disabilities. Advanced practice knowledge includes the qualifications to do assessments, clinical work based on proven practices, and create/modify plans of care; and

(c) Any geriatric behavioral health worker, who does not have a master's degree in social work, must be directly supervised by and employee who is a registered nurse or has a master's degree in social work.

(8) A nursing facility that fails to meet the minimum staffing requirement of three hours and twenty-four minutes of direct care per resident day for any quarter is subject to a fine. The department will determine the amount of the fine as follows:

(a) The fine must be based on the total cost the facility would have incurred had it complied with the three hours and twenty-four minutes HRD requirement;

(b) The department will use a formula that calculates a fine based on the cost of certified nurse aid wages and benefits for the missing staff hours;

(c) If the facility believes that the department's application of the standard in subsection (8)(b) of this section is inequitable, it may explain its position to the department and request consideration of an alternative method of calculating the fine. The department may grant the facility's request at its sole discretion, without right of appeal or review;

(d) The fine will be one and a half times the additional amount it would have cost the facility to provide direct care at the three hours and twenty-four minutes HRD standard for a facility's first violation and two times the additional amount for each subsequent violation by the facility; and

(e) After a facility has not violated the three hours and twenty-four minutes HRD requirement for four years the department will reset the facility's status and treat any subsequent violation as an initial violation.

(9) If a non-compliant facility believes that it made a good-faith effort to meet the minimum staffing requirement and asks that the penalty not be imposed, the department may in its sole discretion waive the penalty. The facility does not have a right to appeal or review of the department's decision to enforce or waive a penalty.

(10) If the department waives a facility's fine under subsection (9) of this section, its noncompliance with the three hours and twenty-four minutes HRD requirement must not count as a violation for determining whether a future violation is a first violation or a subsequent violation under subsection (8)(d) of this section and must not count as a violation for the purposes of resetting a facility's status under section (8)(e).

(11) The amount of money the facility would have been required to spend to reach three hours and twenty-four minutes HRD must be treated as a direct care cost during the annual rate settlement process. The portion of the fine repre-

senting the additional one-half or one times that amount is a penalty, and will not be added to the actual costs of the facility in the settlement process.

(12) The department will monitor compliance with the three hours and twenty-four minutes HRD minimum staffing requirement for the quarter beginning July 1, 2016, but will not impose any penalties on facilities that do not comply during that quarter. The department instead will notify non-complying facilities what their penalty would otherwise have been, and will require those facilities to submit a written plan for correcting the deficiency. The department will begin imposing fines for the quarter beginning October 1, 2016. Noncompliance with the three hours and twenty-four minutes HRD requirement during the quarter beginning July 1, 2016 must not count as a first violation for fine calculation purposes under subsection (8)(d) of this section.

(13) The facility must pay penalties under WAC 388-97-1090(8) by check. The department will deposit penalty checks into the nursing facility quality enhancement account in the custody of the state treasurer. The department's secretary, or the secretary's designee, may authorize expenditures from the nursing facility quality enhancement account. Such expenditures may only be for: technical assistance to nursing facilities, specialized training for nursing facilities, or an increase to the quality enhancement component of the daily medicaid rate provided by RCW 74.46.581.

(14) The department may grant a limited exception to the three hours and twenty-four minutes HRD staffing requirements for facilities demonstrating a good faith effort to hire and retain staff.

(15) To determine initial facility eligibility for exception consideration, the department must send surveys to facilities anticipated to be below, at, or slightly above the three hours and twenty-four minutes HRD requirement.

(16) These surveys report the staffing of a facility from October through December 2015, January through March 2016, and April through June 2016. The survey will report the hours worked by month for registered nurses, licensed nurse practitioners, certified nursing assistants, and geriatric behavioral health workers. The survey will also record the census of the facility on the last day of each surveyed month.

(17) A facility must be below the three hours and twenty-four minutes staffing standard on all three surveys to be eligible for exception consideration.

(18) If the staffing HRD for a facility declines from any quarter to another during the survey period, the facility must provide sufficient information in its plan of correction to the department to allow the department to determine if the staffing decrease was deliberate or a result of neglect. The department will find that a decrease in HRD was caused by neglect if the facility fails to submit evidence that the facility made reasonably adequate efforts to maintain or improve its staffing ratio.

(19) The burden of proof is on the facility and the determination of whether or not the decrease was deliberate or due to neglect is entirely at the discretion of the department.

(20) If the department determines a facility's decline was deliberate or due to neglect, that facility is not eligible for an exception consideration.

(21) To determine eligibility for exception approval, the department must review the plan of correction submitted by the facility, among other documents and data sources as determined to be relevant by the department.

(22) Before a facility's exception may be renewed, the department must determine that sufficient progress is being made towards reaching the three hours and twenty-four minutes HRD staff requirement. When reviewing whether to grant or renew an exception, the department must consider factors including but not limited to:

(a) Financial incentives offered by the facilities such as recruitment bonuses and other incentives;

(b) The robustness of the recruitment process;

(c) County employment data;

(d) Specific steps the facility has undertaken to improve retention;

(e) Improvements in the staffing ratio compared to the baseline established in the surveys and whether this trend is continuing; and

(f) Compliance with the process of submitting staffing data, adherence to the plan of correction, and any progress toward meeting this plan, as determined by the department.

(23) Only facilities that have their direct care component rate increase capped according to RCW 74.46.561 are eligible for exception consideration. Facilities that will have their direct care component rate increase capped for one or two years are eligible for exception consideration through June 30, 2017. Facilities that will have their direct care component rate increased capped for three years are eligible for exception consideration through June 30, 2018.

(24) The department may not grant or renew a facility's exception if the facility meets the three hours and twenty-four minutes HRD staffing requirement and subsequently drops below the three hours and twenty-four minutes HRD staffing requirement at any measured point.

(25) The department may grant exceptions for a six-month period per exception.

(26) The department's authority to grant exceptions to the three hours and twenty-four minutes HRD staffing requirement expires June 30, 2018.

## WSR 16-11-009

### PROPOSED RULES

### DEPARTMENT OF HEALTH

[Filed May 5, 2016, 1:22 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.

Hearing Location(s): Department of Health, Town Center 2, 111 Israel Road S.E., Room 145, Tumwater, WA 98513, on June 21, 2016, at 11:00 a.m.

Date of Intended Adoption: July 19, 2016.

Submit Written Comments to: Michelle K. Austin, Project Manager, Department of Health, P.O. Box 47820, Olym-

pia, WA 98504-7820, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2250, by June 21, 2016.

Assistance for Persons with Disabilities: Contact Michelle K. Austin by June 17, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is necessary to update the publication date of rules previously adopted by reference in WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions. The amendment makes no changes to any requirements previously adopted, but is required for the department of health (department) to receive full delegation of the radionuclide air emissions program from the United States Environmental Protection Agency (EPA).

Reasons Supporting Proposal: The intent of RCW 70.98.050 is to safely regulate the possession and use of radioactive material within the state of Washington. The intent of RCW 70.98.080(5) is to reduce redundant licensing requirements. The rule meets the intent of the statutes by adopting requirements as stringent as the federal requirements in order for the department to have full delegation authority from EPA.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Statute Being Implemented: RCW 70.98.050 and 70.98.080.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Michelle K. Austin, 111 Israel Road S.E., Tumwater, WA 98504, (360) 236-3250; Implementation and Enforcement: John Martell, 309 Bardley Boulevard, Suite 201, Richland, WA 99352, (509) 946-3798.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference - without material change - federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards].

May 5, 2016  
Clark Halvorson  
Assistant Secretary

AMENDATORY SECTION (Amending WSR 16-06-003, filed 2/17/16, effective 3/19/16)

**WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.** (1) The following federal standards, as in effect on July 1, (~~2015~~) 2016, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 C.F.R. Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 C.F.R. Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 C.F.R. Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 C.F.R. Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 C.F.R. Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 C.F.R. Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 C.F.R. Part 61 include the department of health except in any section of 40 C.F.R. Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

**WSR 16-11-024**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed May 9, 2016, 9:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-016.

Title of Rule and Other Identifying Information:  
Amends WAC 181-85-025 to remove the language from cita-

tion to WAC 181-78A-010. New definition of nationally accredited institutions; not regionally accredited.

Hearing Location(s): Raddison Hotel SeaTac, 18118 International Boulevard, Seattle, WA 98188, on July 20, 2016, at 8:30.

Date of Intended Adoption: July 20, 2016.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by July 13, 2016.

Assistance for Persons with Disabilities: Contact David Brenna by July 13, 2016, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Many teachers have degrees from nationally accredited institutions. Both Washington student achievement council and the federal Department of Education authorize nationally accrediting organizations and nationally accredited institutions.

Reasons Supporting Proposal: Consistent with state determinations about approved higher education degrees.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

May 9, 2016  
David Brenna  
Senior Policy Analyst

**AMENDATORY SECTION** (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

**WAC 181-85-025 Continuing education—Definition.** As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit, normally 100 level or higher, or continuing education credit awarded by ((~~a regionally~~)) an accredited institution of higher education, pursuant to WAC 181-78A-010(~~((6))~~).

(2) All continuing education credit hours awarded by a vocational-technical college pursuant to WAC 181-85-030(3) and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 181-83 WAC, Internships.

(4) All continuing education credit hours awarded in conformance with WAC 181-85-033 (~~and 181-85-034~~).

**WSR 16-11-025**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed May 9, 2016, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [no information supplied by agency].

Title of Rule and Other Identifying Information: WAC 458-16-300 Public meeting hall—Public meeting place—Community meeting hall, provides administrative guidance regarding criteria of eligibility for nonprofit organizations applying for a property tax exemption under RCW 84.36.037 Nonprofit organization property connected with operation of public assembly hall or meeting place.

Hearing Location(s): Capital Plaza Building, 4th Floor Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 21, 2016, at 1:00 p.m. *Call-in option can be provided upon request no later than three days before the hearing date.*

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Date of Intended Adoption: June 28, 2016.

Submit Written Comments to: Leslie Mullin, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail LeslieMu@dor.wa.gov, by June 21, 2016.

Assistance for Persons with Disabilities: Contact Julie King, (360) 704-5717, or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending WAC 458-16-300 will update language due to the passage of SB 6405 (2014), which standardized criteria for nonexempt uses of tax exempt property owned by nonprofit organizations; SHB 2402 (2010), which allowed tax exempt property to be used to conduct a farmers market; and SHB 1510 (2006), which allowed certain uses of property located in counties with a population of less than twenty thousand. Amending WAC 458-16-300 will also provide clarity for nonprofit organizations on the types of qualifying uses allowable for this exemption.

Reasons Supporting Proposal: The amendments are needed to recognize legislation and to provide clarity on eligibility requirements for nonprofit organizations.

Statutory Authority for Adoption: RCW 84.08.010 and 84.36.865.

Statute Being Implemented: RCW 84.36.037 and 84.36.-805.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 1025 Union Avenue S.E., Suite #544, Olym-

pia, WA, (360) 534-1589; Implementation and Enforcement: Marcus Glasper, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

May 9, 2016  
Kevin Dixon  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-18-006, filed 8/20/98, effective 9/20/98)

**WAC 458-16-300 Public meeting hall—Public meeting place—Community meeting hall.** (1) **Introduction.** This ~~((section))~~ rule explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public meeting hall, public meeting place, or community meeting hall.

(2) **Definitions.** For purposes of this ~~((section))~~ rule, the following definitions apply:

(a) ~~("Inadvertent use or inadvertently used" means any unintentional or accidental use of exempt property by an individual, organization, association, or a corporation for pecuniary gain or to promote business activities through either carelessness, lack of attention, lack of knowledge, mistake, surprise, or neglect.)~~ "Affiliate" means an association, organization, or corporation that is a branch, unit, chapter, or appendant body of the property owner.

(b) "Property" means real or personal property owned by a nonprofit organization, association, or corporation.

(c) ~~"Public gathering" means ((any social function that the general public could, if invited, attend. For example, a public gathering includes, but is not limited to, a wedding, reception, funeral, reunion, or meeting of any organization, association, or corporation that is open to nonmembers. The term does not mean a meeting to which only members of a specific organization, association, or corporation are allowed to attend.~~

(e) ~~"Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles to maintain and operate the loaned or rented portion of the exempt facility.~~

(d) ~~"Owner" means a nonprofit organization, association, or corporation.~~

(e) "Property" means real or personal property owned by a nonprofit organization, association, or corporation) a meeting or event in which attendance is not limited or restricted to only members of the organization, association, or corporation that owns the property or members of an affiliate. Refer to subsection (4) of this rule for examples of public gatherings.

(3) **Exemption.** Real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public assembly hall, public meeting place,

or community meeting hall ~~((shall))~~ will be exempt from taxation under the following conditions:

(a) **Exclusive use.** The property is used exclusively for public gatherings and is available to any individual, organization, association, or corporation that may desire to use or rent the property. Membership in ~~((a particular))~~ the organization, association, or corporation ~~((shall not be required to))~~ that owns the property or membership in an affiliate of the property owner cannot be a requirement or condition for those persons desiring to rent or use the property.

(i) Availability of property. To ensure the public is aware of the availability of the property, the property owner must provide written notification to the public that the property is available for use or rental. This written notification may include, but is not limited to, advertising in community newsletters or web sites, on facility reader boards or signs, or in local newspapers. The property owner must make substantial and actual efforts to ensure that the public knows that the property is available for use or rental.

(ii) Qualifying use of property. In a calendar year, the total number of hours used for public gatherings, as that term is defined in this rule, held at the property must exceed the total number of hours used for nonpublic gatherings held at the property, regardless of whether the owner, the owner's affiliate, or renter, hosted or benefited from the public gathering.

(b) **Exemption for real property - Area.** The area of real property exempt under this ~~((section shall))~~ rule may not exceed one acre ~~((This area shall include))~~ including the building(s), the land under the building(s), and any additional area needed for parking.

(c) **Statement of availability and fees required.** The owner of the property ~~((shall))~~ must prepare and make available upon request a schedule of fees, a policy on the availability of the facility, and any restrictions on the use of the facility. The owner may impose ~~((any))~~ conditions or restrictions reasonably necessary to safeguard the property and to comply with the purposes of this exemption.

(d) **Annual summary required.** The owner ~~((shall))~~ must provide the department of revenue with a detailed summary containing the following information regarding the manner in which the exempt property was used during the preceding year:

(i) The name of ~~((any))~~ the person, organization, association, or corporation that used the property;

(ii) The date(s) on which the property was used;

(iii) The purpose for which the property was used;

(iv) Whether the meeting or event was a public gathering.

(v) The methods used to advertise the availability of the property to the public.

(vi) The income derived from the rental of the property; and

~~((+))~~ (vii) The expenses incurred relating to the use of the property.

~~((e))~~ Entities that schedule regular meetings. Any property owned by a nonprofit organization, association, or corporation that schedules regular meetings of its members or shareholders will also qualify for this exemption if:

~~(i) The owner meets the conditions set forth in (a) through (d) of this subsection;~~

~~(ii) The owner does not use the property more than twenty-five percent of the useable time; and~~

~~(iii) The facility is used an equal number or greater number of times for public gatherings than the number of times it is used by the owner for gatherings not open to the general public.~~

~~(f) Loan or rental of property. The tax exempt status of the property will not be affected if it is loaned or rented and the amount of rent or donations collected for the use, loan, or rental of the exempt property:~~

~~(i) Is reasonable; and~~

~~(ii) Does not exceed the maintenance and operation expenses that are created by the corresponding use, loan, or rental.~~

~~(g) Property not included within this exemption. Property that is used more than fifty percent of the time by a non-profit organization, association, or corporation that allows only members to attend its activities does not qualify for this exemption.)~~

(4) **Examples.** Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) Example 1. Prior to a member only meeting, a fraternal organization hosts a dinner at its facility that is open to nonmembers. The fraternal organization advertised the dinner on its web site and reader board, which clearly conveyed the public could attend. The dinner and the member only meeting are considered two separate events. The dinner is considered a public gathering because nonmembers are allowed to attend. However, the member only meeting following the dinner is not considered a public gathering.

(b) Example 2. A boys youth organization hosts a spaghetti feed at its facility to raise money for a camping trip. The organization advertised the spaghetti feed in the local newspaper, which stated nonmembers are allowed to attend. The spaghetti feed is considered a public gathering.

(c) Example 3. A girls youth organization has weekly club meetings at its facility. The weekly meetings are advertised on the organization's public web site as being open for nonmembers to also attend. The weekly club meetings are considered public gatherings.

(d) Example 4. A member only organization allows its public assembly hall to be rented for weddings, receptions, reunions, funerals, and other special events. The organization advertises the availability of its facility for rental by the public in a community newsletter. There are no restrictions on who can rent the hall, so these events are considered public gatherings. However, if the ability to rent the hall is based on membership in the owning organization or membership in an affiliate of the owning organization, then the events would not be considered public gatherings.

(e) Example 5. A garden club offers horticultural workshops for a fee at its facility one day each month. The workshop is advertised in the community newsletter as being open to anyone who wants to attend. The workshops are considered public gatherings because members of the public can

attend, even if registration and/or payment are required. Although a fee is charged, the monthly workshops offered by the garden club do not count towards the fifteen day pecuniary gain limitation described in subsection (5)(a) of this rule because the fee only covers the materials and supplies necessary to conduct the workshop.

(f) Example 6. A member only organization rents a public assembly hall for its monthly board meetings. The board meetings are not open to the public. The organization that owns the facility advertises its availability to the public in the local newspaper. The two organizations are not affiliated with each other. Although the monthly board meetings are not open to the public, they are considered public gatherings for the purpose of this exemption because the rental of the facility is not being restricted to only members of the owning organization or to members of affiliates of the owning organization.

(5) **Use of property for pecuniary gain or to promote business activities.** If a public meeting hall, public meeting place, or community meeting hall exempt under subsection (3) of this ~~(section)~~ rule is used for pecuniary gain or to promote business activities, the property tax exemption will be lost ~~((for the assessment year following the year in which the exempt property is so used))~~. However, the exemption will not be lost if:

(a) The exempt property is used for pecuniary gain or to promote business activities ~~((seven))~~ fifteen days or less in an assessment year; ~~((or))~~

(b) In a county with a population of less than ~~((ten))~~ twenty thousand people, the exempt property is used to promote the following business activities: Dance lessons; art classes; or music lessons~~((or))~~

(c) The exempt property is inadvertently used by an individual, organization, association, or a corporation for pecuniary gain or to promote business activities if the inadvertent use is not a pattern of use. A "pattern of use" is presumed when an inadvertent use of the property for pecuniary gain or to promote business activities is repeated within the same assessment year or within two or more successive assessment years). The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented;

(d) The exempt property is used to conduct a farmers market, as defined in RCW 66.24.170, for fifty-three days or less each assessment year. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or

(e) All income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation expenses of the exempt property, or for other exempt purposes that support the goals of the nonprofit organization receiving the property tax exemption.

~~((5))~~ (6) **Additional requirements.** Any nonprofit organization, association, or corporation that applies for a property tax exemption under this ~~((section))~~ rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 ~~((sets forth))~~ provides additional conditions and



requirements that must be (~~complied with~~) satisfied to obtain a property tax exemption pursuant to RCW 84.36.037.

**WSR 16-11-026**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed May 9, 2016, 12:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-053.

Title of Rule and Other Identifying Information: WAC 458-20-151 (Rule 151) Dentists and other health care providers, dental laboratories and dental technicians.

Hearing Location(s): Capital Plaza Building, 4th Floor Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 23, 2016, at 10:00 a.m. *Call-in option can be provided upon request no later than three days before the hearing date.*

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Date of Intended Adoption: June 30, 2016.

Submit Written Comments to: Leslie Mullin, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail LeslieMu@dor.wa.gov, by June 23, 2016.

Assistance for Persons with Disabilities: Contact Julie King, (360) 704-5717, or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to revise Rule 151 to:

- Provide specific tax instructions for audiologists;
- Update the rule including removing past statutory language;
- Move definitions to a separate subsection under the Introduction; and
- Change title of rule to include "audiologists."

Reasons Supporting Proposal: The proposed revisions to Rule 151 will provide guidance to audiologists when reporting their gross income to the department.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1589; Implementation and Enforcement: Marcus Glasper, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

May 9, 2016  
Kevin Dixon  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-06-069, filed 2/25/10, effective 3/28/10)

**WAC 458-20-151 Dentists, audiologists, and other health care providers(~~g~~)—Dental laboratories(~~g~~) and dental technicians.** (1) **Introduction.** This rule explains the application of business and occupation (B&O), retail sales, and use taxes to the business activities of dentists (~~and other health care providers~~), audiologists, dental laboratories, (~~and~~) dental technicians(~~—For purposes of this rule, a "health care provider" is a person who is licensed under the provisions of Title 18 RCW to provide health care services to humans in the ordinary course of business or practice of a profession. The department of revenue (department) has adopted other rules dealing with the taxability of various activities relating to the provision of health care. Readers may want to refer to the following rules for additional information:~~), and other health care providers.

(a) **Examples.** Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(b) **Other rules that may apply.** Readers may also want to refer to other rules for additional information, including those in the following list:

- (i) WAC 458-20-102 Reseller permits;
- (ii) WAC 458-20-150 (~~(f)~~)Optometrists, ophthalmologists, and opticians(~~(h)~~);
- (~~(b)~~) (iii) WAC 458-20-168 (~~(f)~~)Hospitals, nursing homes, (~~boarding homes~~) assisted living facilities, adult family homes and similar health care facilities(~~(h)~~);
- (~~(e)~~) (iv) WAC 458-20-178 Use tax and the use of tangible personal property; and
- (v) WAC 458-20-18801 (~~(Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen); and~~
- (d) WAC 458-20-233 (~~Tax liability of medical and hospital service bureaus and associations and similar health care organizations~~)) Medical substances, devices, and supplies for humans—Drugs prescribed for human use—Medically prescribed oxygen—Prosthetic devices—Mobility enhancing equipment—Durable medical equipment.

(c) **Definitions.** For the purposes of this rule the following definitions apply:

(i) **Audiologists.** "Audiologists" diagnose, manage, and treat a patient's hearing, balance, or related ear problems.

(ii) **Gross income.** "Gross income" means compensation for the rendition of health care services, and includes any separate charge for drugs, medicines, and other substances administered or provided to a patient as part of the health care services delivered to the patient. Gross income also includes any separate charges for prosthetic devices, including dental

protheses and hearing aids that are provided as part of the health care services delivered to patients.

**(iii) Health care provider.** A "health care provider" is a person licensed under the provisions of Title 18 RCW to provide health care services to humans in the ordinary course of business or practice of a profession.

**(iv) Prosthetic device.** "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for a prosthetic device, worn on or in the body to artificially replace a missing portion of the body, prevent or correct a physical deformity or malfunction, or support a weak or deformed portion of the body. RCW 82.08.0283. Dental appliances, devices, restorations, substitutes, or other dental laboratory products are also referred to as "dental protheses" throughout this rule.

**(2) Tax-reporting information for dentists, audiologists, and other health care providers.** This subsection provides specific tax-reporting information for dentists, audiologists, and more generalized tax-reporting information for other health care providers. Dentists who employ dental technicians to produce or fabricate dental appliances, devices, restorations, substitutes, or other dental laboratory products should refer to subsection (3)(b) and (d)) of this rule for additional information. (Dental appliances, devices, restorations, substitutes, or other dental laboratory products are also referred to as "dental protheses" throughout this rule.

~~(a) Taxability of dental and other health care services.)~~

**(a) Business and occupation tax.** Dentists, audiologists, and other health care providers are subject to the service and other activities B&O tax on their gross income from performing dental and other health care services. (The term "gross income" includes any separate charge for drugs, medicines, and other substances administered or provided to a patient as part of the dental or other health care services delivered to the patient. "Gross income" also includes any separate charges for prosthetic devices, including dental protheses, that are provided as part of the dental or other health care services delivered to patients.

For purposes of this rule, "prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for a prosthetic device, worn on or in the body to artificially replace a missing portion of the body, prevent or correct a physical deformity or malfunction, or support a weak or deformed portion of the body.) RCW 82.04.290.

**(b) Sales of tangible personal property (apart from dental and other health care services).** A dentist, audiologist, or other health care provider may make sales of tangible personal property such as hearing aid batteries, drugs, medicines, and bandages as a convenience to a buyer apart from any health care services provided to the buyer. These are sales of tangible personal property only when the dentist, audiologist, or other health care provider does not supply or administer the drug, medicine, or other item in the course of delivering health care services to the buyer. The gross proceeds of these retail sales of tangible personal property are subject to the retailing B&O tax. In addition, the dentist, audiologist, or other health care provider must collect and remit retail sales tax, unless the sale is specifically exempt by

law. ((See WAC 458-20-18801)) For detailed information regarding retail sales tax exemptions available for sales of items commonly associated with health care services refer to WAC 458-20-18801. Adequate records must be kept by the dentist, audiologist, or other health care provider to distinguish items of tangible personal property ((that are)) supplied or administered to patients as part of health care services from those ((that are)) sold apart from health care services delivered to the buyer.

Purchases of tangible personal property for resale without intervening use are not subject to the retail sales tax. A dentist, audiologist, or other health care provider purchasing tangible personal property for resale must furnish a ((resale certificate for purchases made before January 1, 2010, or a)) reseller permit ((for purchases made on or after January 1, 2010;)) to the seller to document the wholesale nature of the sale ((as provided in WAC 458-20-102A (Resale certificates) and WAC 458-20-102 (Reseller permits). Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the seller for five years from the date of last use or December 31, 2014)). For information on reseller permits, see WAC 458-20-102.

**(c) Equipment and supplies used by dentists, audiologists, and other health care providers.** Purchases of equipment and supplies used by dentists, audiologists, and other health care providers in performing diagnostic, dental, or other health care services are purchases at retail and subject to retail sales tax unless specifically exempt by law. If the seller does not collect retail sales tax, the dentist, audiologist, or other health care provider must remit the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department unless specifically exempt by law. Deferred sales or use tax ((should be reported on the buyer's excise tax return. However, the excise tax return does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax)) liability should be reported on the use tax line of the buyer's excise tax return. For detailed information regarding the use tax, ((refer to)) see WAC 458-20-178 ((Use tax)).

Dental protheses are exempt from retail sales and use taxes if the dental prosthesis meets the definition of "prosthetic device," ((in subsection (2)(a) of this rule. RCW 82.08.0283 and 82.12.0277.)) Exempt items include, but are not limited to, full and partial dentures, crowns, inlays, fillings, braces, retainers, collars, wire, screws, bands, splints, night guards, gold, silver, alloys, acrylic materials, filling material, relined material, cement, cavity liners, pins, and endo posts.

**(d) Itemization of gross income.** Audiologists who itemize invoices to their patients showing charges for tests and evaluations separate from charges for sales of hearing aids may separately report their income under the service and other activities B&O tax classification and the retailing B&O tax classification, respectively. Audiologists who do not separately charge for their services and sales of hearing aids must report their gross income under the service and other activities B&O tax classification.

**(e) Examples.** ((The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of

~~other situations must be determined after a review of all of the facts and circumstances.))~~

(i) **Example 1.** Dr. A is a physician who specializes in the treatment of allergies. Dr. A treats many patients with injections of allergy extracts (antigens). Dr. A separately itemizes the charges for the antigen, the administration of the injection, and the office call in patients' billings. Dr. A is subject to service and other activities B&O tax on the entire charge for the antigen, administration of the injection, and office call. Even though Dr. A separately itemizes the charges for antigens, these are not retail sales because Dr. A administers the antigens to the patients.

(ii) **Example 2.** Dr. B made mail-order purchases of a computer, books, and magazines for use in Dr. B's dental practice. Dr. B did not pay retail sales tax to the sellers on these purchases. Therefore, Dr. B must remit to the department deferred retail sales or use tax on the computer, books, and magazines.

(3) **Tax-reporting information for dental laboratories and dental technicians.** This subsection provides tax-reporting information for dental laboratories and dental technicians.

(a) **Producing or fabricating dental prostheses for sale.** The production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by dental laboratories and dental technicians is a manufacturing activity. RCW 82.04.120. Thus, dental laboratories and dental technicians are subject to manufacturing B&O tax on the value of the dental prostheses they manufacture. The value of products manufactured is generally the gross proceeds of sales of such manufactured products. For additional information about the manufacturing B&O tax, ~~((refer to))~~ see WAC 458-20-136 ~~((Manufacturing, processing for hire, fabricating))~~.

(i) **Sales of dental prostheses manufactured by dental laboratories and dental technicians.** Dental laboratories and dental technicians ~~((who))~~ that make sales within this state of dental prostheses they have manufactured are subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the dental laboratory or dental technician must report under the manufacturing B&O tax classification as well as the wholesaling ~~((and/or))~~ or retailing B&O tax classification~~((s))~~. However, a multiple activities tax credit (MATC) may be claimed. For detailed information about the MATC, ~~((refer to))~~ see WAC 458-20-19301 ~~((Multiple activities tax credits))~~. Dental laboratories or dental technicians making wholesale sales must obtain a ~~((resale certificate (WAC 458-20-102A) for sales made before January 1, 2010, or a))~~ reseller permit ~~((WAC 458-20-102) for sales made on or after January 1, 2010;))~~ from the buyer to document the wholesale nature of the sale.

As noted ~~((above))~~ in subsection (2)(c) of this rule, sales of dental prostheses including, but not limited to, full and partial dentures, crowns, inlays, fillings, braces, and retainers are exempt from retail sales tax if the dental prosthesis meets the definition of a "prosthetic device," ~~((in subsection (2)(a) of this rule. RCW 82.08.0283.))~~

(ii) **Dental casts, models, and other articles of tangible personal property manufactured by dental laboratories and dental technicians for commercial or industrial use.**

Dental laboratories and dental technicians may manufacture dental casts, models, or other articles of tangible personal property that they use ~~((in producing or fabricating))~~ to produce or fabricate dental prostheses. In such cases, the dental laboratory or dental technician is manufacturing a product for commercial or industrial use and is subject to the manufacturing B&O tax on the value of the dental cast, model, or other article of tangible personal property. ~~((See WAC 458-20-112 (Value of products))~~ For information regarding the value of products~~((s))~~, see RCW 82.04.450 and WAC 458-20-112. As the consumer of the dental cast, model, or other article of tangible personal property manufactured for commercial or industrial use, the dental laboratory or dental technician is also liable for use tax on the value of the dental cast, model, or other article of tangible personal property, unless the use is specifically exempt by law.

(b) **In-house manufacturing of dental prostheses by dentists.** As noted in this rule, the production or fabrication of dental prostheses by dental laboratories and dental technicians is a manufacturing activity. However, the production or fabrication of dental prostheses by dentists in the course of providing dental care services to their patients is not a manufacturing activity under the law and, therefore, manufacturing B&O tax does not apply to ~~((this))~~ that activity. A dentist may personally produce or fabricate dental prostheses, or the dentist may have an employee who is a dental technician produce or fabricate the dental prostheses. These dental prostheses are considered a tangible representation of professional services provided to the dentist's patients. Dentists who manufacture impressions, dental casts, models, or other articles of tangible personal property that they use ~~((in producing or fabricating))~~ to produce or fabricate dental prostheses should refer to subsection (3)(a)(ii) of this rule for tax reporting instructions applicable to this activity.

~~((The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.))~~

(i) **Example 3.** Jane Doe, an employee of Dentist A, fabricates dental prostheses. Dentist A provides these products to patients in the course of rendering dental care services. Dentist A is subject to service and other activities B&O tax on the gross income received for providing dental care services, including any charge for the dental prostheses even if Dentist A separately charges patients for the dental prostheses. ~~((See subsection (2)(a) of this rule.))~~

(ii) **Example 4.** The facts are the same as in the previous example except that Dentist A also sells to Dentist B dental prostheses produced by Jane Doe in the course of Jane's employment with Dentist A. For these sales of dental prostheses to Dentist B, Dentist A is acting as a dental laboratory and, therefore, is liable for both manufacturing B&O tax and retailing B&O tax with respect to the manufacture and sale of dental prostheses to Dentist B. Dentist A may also claim a MATC ~~((t)).~~ See subsection (3)(a) and (a)(i) of this rule. ~~((s))~~ The sales to Dentist B are exempt from retail sales tax under RCW 82.08.0283 if the items qualify as a "prosthetic device" as defined ~~((above))~~ in subsection ~~((2)(a))~~ (1)(c)(iv) of this rule.

(c) **Equipment and supplies used by dental laboratories and dental technicians.** Purchases of equipment and supplies by dental laboratories and dental technicians for use in manufacturing dental prostheses are generally purchases at retail and subject to retail sales tax unless specifically exempt by law. If the seller does not collect retail sales tax, the dental laboratory or dental technician must remit the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department unless specifically exempt by law. Deferred sales or use tax should be reported on the ~~((buyer's excise tax return. However, the excise tax return does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the))~~ use tax line of the buyer's excise tax return. For detailed information regarding use tax, ~~((refer to))~~ see WAC 458-20-178.

(i) **Components of dental prostheses produced for sale.** Purchases of supplies that become components of dental prostheses ~~((that are))~~ produced for sale are purchases at wholesale and are not subject to retail sales tax, if the buyer provides the seller with a ~~((properly completed resale certificate (WAC 458-20-102A) for purchases made before January 1, 2010, or a))~~ reseller permit ~~((WAC 458-20-102) for purchases made on or after January 1, 2010,))~~ to document the wholesale nature of the transaction.

(ii) **Example 5.** ~~((The following example identifies a number of facts and then states a conclusion. This example should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.))~~ A dental lab purchases equipment and supplies including gold, silver, alloys, artificial teeth, cement, and tools. The purchases of gold, silver, alloys, artificial teeth, and cement that become components of dental prostheses are wholesale purchases and are not subject to retail sales tax if the buyer provides the seller with a ~~((resale certificate (WAC 458-20-102A) for purchases made before January 1, 2010, or a))~~ reseller permit ~~((WAC 458-20-102) for purchases made on or after January 1, 2010,))~~. The tools are subject to retail sales or use tax unless they qualify for the manufacturing machinery and equipment sales and use tax exemptions. Additional information about ~~((this))~~ these exemptions is provided ~~((below))~~ in subsection (3)(d) of this rule.

(d) **Sales and use tax exemptions for manufacturing machinery and equipment.** ~~((A))~~ RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions ~~((is provided by RCW 82.08.02565 and 82.12.02565))~~ for sales to or use by manufacturers of certain machinery and equipment used directly in a manufacturing operation. ~~((This exemption is))~~ These exemptions are limited to machinery and equipment used to manufacture products for sale as tangible personal property. Thus, dental laboratories and dental technicians manufacturing dental prostheses for sale may be eligible for ~~((this))~~ these exemptions. The ~~((exemption is))~~ exemptions are not available if these products are produced or fabricated by a dentist or an employee of a dentist and are provided to patients in the course of delivering dental care services to the patients (as is the case in ~~((the example provided in subsection (3)(b)(i) of this rule). Refer to WAC 458-20-13601 (Manufacturers and processors for hire—Sales and~~

~~use tax exemption for machinery and equipment))~~ Example 3). See WAC 458-20-13601 for detailed information regarding ~~((this))~~ these exemptions.

**WSR 16-11-044**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
 (Washington Apple Health)  
 [Filed May 11, 2016, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-143.

Title of Rule and Other Identifying Information: WAC 182-531-1500 Sleep studies.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf), or directions can be obtained by calling (360) 725-1000), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2016.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on June 21, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by June 17, 2016, e-mail [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov) or (360) 725-1349, TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency amended WAC 182-531-1500 to clarify sleep studies criteria for children age twenty or younger.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Lisa Humphrey, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

May 11, 2016  
 Wendy Barcus  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-20-057, filed 10/1/15, effective 11/1/15)

**WAC 182-531-1500 Sleep studies.** (1) Purpose. For the purposes of this section, sleep studies include polysomnography (PSG), unattended home sleep test (HST), and multiple sleep latency testing (MSLT). The medicaid agency covers attended, full-channel, PSG, MSLT, and unattended HSTs when:

- (a) Ordered by the client's physician;
- (b) Performed by an agency-designated center of excellence (COE) that is an independent diagnostic testing facility, sleep laboratory, or outpatient hospital; and
- (c) Results are used to:
  - (i) Establish a diagnosis of narcolepsy or sleep apnea; or
  - (ii) Evaluate a client's response to therapy, such as continuous positive airway pressure (CPAP).

(2) Definitions. The following definitions, those found in chapter 182-500 WAC, and definitions found in other sections of this chapter, apply to this section:

(a) "American Academy of Sleep Medicine" or "AASM" - The only professional society dedicated exclusively to the medical subspecialty of sleep medicine. AASM sets standards and promotes excellence in health care, education, and research. Members specialize in studying, diagnosing, and treating disorders of sleep and daytime alertness such as insomnia, narcolepsy, and obstructive sleep apnea.

(b) "Continuous positive airway pressure" or "CPAP" - See WAC 182-552-0005.

(c) "Core provider agreement" or "CPA" - The basic contract the agency holds with providers serving medical assistance clients.

(d) "Multiple sleep latency test" or "MSLT" - A sleep disorder diagnostic tool used to measure the time elapsed from the start of a daytime nap period to the first signs of sleep, called sleep latency. The MSLT is used extensively to test for narcolepsy, to distinguish between physical tiredness and true excessive daytime sleepiness, or to assess whether treatments for breathing disorders are working.

(e) "Obstructive sleep apnea" or "OSA" - See WAC 182-552-0005.

(f) "Polysomnogram" - The test results from a polysomnography.

(g) "Polysomnography" - A multiparametric test that electronically transmits and records specific physical activities while a person sleeps. The recordings become data that are analyzed by a qualified sleep specialist to determine whether or not a person has a sleep disorder.

(h) "PSG" - The abbreviation for both "polysomnography" and "polysomnogram."

(i) "Registered polysomnographic technologist" or "RPSGT" - A sleep technologist credentialed by the board of registered polysomnographic technologists to assist sleep specialists in the clinical assessment, physiological monitoring and testing, diagnosis, management, and prevention of sleep-related disorders with the use of various diagnostic and therapeutic tools. These tools include, but are not limited to, polysomnograph, positive airway pressure devices, oximeter, capnograph, actigraph, nocturnal oxygen, screening devices, and questionnaires. To become certified as a registered polysomnographic technologist, a sleep technologist must have

the necessary clinical experience, hold CPR certification or its equivalent, adhere to the board of registered polysomnographic technologists standards of conduct, and pass the registered polysomnographic technologist examination for polysomnographic technologists.

(3) Client eligibility. Clients in the following agency programs are eligible to receive sleep studies as described in this section:

- (a) Categorically needy (CN);
- (b) Apple health for kids and other children's medical assistance programs as defined in WAC 182-505-0210;
- (c) Medical care services as described in WAC 182-508-0005 (within Washington state or border areas only); and
- (d) ~~((Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) (within Washington state or border areas only); and~~
- (e)) Medically needy (MN) only when the client is either:

(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program as described in chapter 182-534 WAC; or

(ii) Receiving home health care services as described in chapter 182-551 WAC, subchapter II.

(4) Provider requirements. To be paid for providing sleep studies as described in this section to eligible clients, the facility must:

(a) Be a sleep study COE. Refer to subsection (5) of this section for information on becoming an agency-approved sleep study COE;

(b) Be currently accredited by AASM and continuously meet the accreditation standards of AASM;

(c) Have at least one physician on staff who is board certified in sleep medicine; and

(d) Have at least one registered polysomnographic technologist (RPSGT) in the sleep lab when studies are being performed.

(5) Documentation.

(a) To become an agency-approved COE, a sleep center must send the following documentation to the Health Care Authority, c/o Provider Enrollment, P.O. Box 45510, Olympia, WA 98504-5510:

(i) A completed CPA; and

(ii) Copies of the following:

(A) The sleep center's current accreditation certificate by AASM;

(B) Either of the following certifications for at least one physician on staff:

(I) Current certification in sleep medicine by the American Board of Sleep Medicine (ABSMT); or

(II) Current subspecialty certification in sleep medicine by a member of the American Board of Medical Specialties (ABMS); and

(C) The certification of an RPSGT who is employed by the sleep center.

(b) Sleep centers must request reaccreditation from AASM in time to avoid expiration of COE status with the agency.

(c) At least one physician on staff at the sleep center must be board certified in sleep medicine. If the only physi-

cian on staff who is board certified in sleep medicine resigns, the sleep center must ensure another physician on staff at the sleep center obtains board certification or another board-certified physician is hired. The sleep center must then send provider enrollment a copy of the physician's board certification.

(d) If a certified medical director leaves a COE, the COE status does not transfer with the medical director to another sleep center.

(e) The COE must maintain a record of the physician's order for the sleep study.

(6) Coverage.

(a) The agency (~~(covers)~~) pays for only medically necessary sleep studies. The need for the sleep study must be confirmed by medical evidence (e.g., physician examination and laboratory tests).

(b) For clients age twenty-one and older, the agency covers:

(i) An unattended home sleep test (HST) as follows:

(A) Using one of the following HST devices:

(I) Type II home sleep monitoring device;

(II) Type III home sleep monitoring device; or

(III) Type IV home sleep monitoring device that measures at least three channels.

(B) To confirm obstructive sleep apnea (OSA) in an individual with signs or symptoms consistent with OSA (e.g., loud snoring, awakening with gasping or choking, excessive daytime sleepiness, observed cessation of breathing during sleep, etc.).

(ii) Full-night, in-laboratory PSG for either of the following:

(A) Confirmation of obstructive sleep apnea (OSA) in an individual with signs or symptoms consistent with OSA (e.g., loud snoring, awakening with gasping or choking, excessive daytime sleepiness, observed cessation of breathing during sleep, etc.); or

(B) Titration of positive airway pressure therapy when initial PSG confirms the diagnosis of OSA, and positive airway pressure is ordered; or

(iii) Split-night, in-laboratory PSG in which the initial diagnostic portion of the PSG is followed by positive airway pressure titration when the PSG meets either of the following criteria:

(A) The apnea-hypopnea index (AHI) or respiratory disturbance index (RDI) is greater than or equal to fifteen events per hour; or

(B) The AHI or RDI is greater than or equal to five and less than or equal to fourteen events per hour with documentation of either of the following:

(I) Excessive daytime sleepiness, impaired cognition, mood disorders, or insomnia; or

(II) Hypertension, ischemic heart disease, or history of stroke.

(c) (~~For clients age twenty and younger, the agency considers any of the following indications as medically necessary criteria for a sleep study:)~~ The agency considers any of the following indications medically necessary for clients age twenty and younger:

(i) OSA suspected based on clinical assessment;

(ii) Obesity, Trisomy 21, craniofacial abnormalities, neuromuscular disorders, sickle cell disease, or mucopolysaccharidosis (MPS), prior to adenotonsillectomy in a child;

(iii) Residual symptoms of OSA following mild preoperative OSA;

(iv) Residual symptoms of OSA in a child with preoperative evidence of moderate to severe OSA, obesity, craniofacial anomalies that obstruct the upper airway, or neurologic disorder following adenotonsillectomy;

(v) Titration of positive airway pressure in a child with OSA;

(vi) Suspected congenital central alveolar hypoventilation syndrome or sleep related hypoventilation due to neuromuscular disorder or chest wall deformities;

(vii) Primary apnea of infancy;

(viii) Evidence of a sleep-related breathing disorder in an infant who has experienced an apparent life threatening event;

(ix) Child being considered for adenotonsillectomy to treat OSA; or

(x) Clinical suspicion of an accompanying sleep-related breathing disorder in a child with chronic asthma, cystic fibrosis, pulmonary hypertension, bronchopulmonary dysplasia, or chest wall abnormality.

(7) Noncoverage. The agency does not cover sleep studies:

(a) When documentation for a repeat study does not indicate medical necessity (e.g., no new clinical documentation indicating the need for a repeat study); or

(b) For the following indications, except when an underlying physiology exists (e.g., loud snoring, awakening with gasping or choking, excessive daytime sleepiness, observed cessation of breathing during sleep, etc.):

(i) Chronic insomnia; and

(ii) Snoring.

## WSR 16-11-047

### PROPOSED RULES

### PROFESSIONAL EDUCATOR

### STANDARDS BOARD

[Filed May 11, 2016, 3:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-104.

Title of Rule and Other Identifying Information: Amends WAC 181-79A-231 to provide for continuing career and technical education (CTE) certificate holders to be issued lifetime teaching substitute certificates. Clarifies that education staff associates (ESA) may only substitute in that role.

Hearing Location(s): Radison [Radisson] Hotel SeaTac, 18118 International Boulevard, Seattle, WA 98188, on July 20, 2016, at 8:30.

Date of Intended Adoption: July 20, 2016.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by July 13, 2016.

Assistance for Persons with Disabilities: Contact David Brenna by July 13, 2016, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 181-79A-231 addresses temporary certificates for teaching. This amendment will permit CTE teachers to substitute teach. Also limits ESA certificate holders to substitute only in their role as stated on the certificate.

Reasons Supporting Proposal: Open CTE teachers to being available as substitutes. Restricts ESA from classroom substituting.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

May 11, 2016  
David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 15-20-058, filed 10/1/15, effective 11/1/15)

**WAC 181-79A-231 Limited certificates.** Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The professional educator standards board encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The professional educator standards board asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a bachelor's degree or higher from a regionally accredited college/university. All speech-language pathologists or audiologists providing services under a current and valid conditional certificate issued as of June 30, 2003, will be fully qualified consistent with WAC 181-79A-223 by the year 2010. First conditional certificates, issued to speech-language pathologists or audiologists after June 30, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologists or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from ~~((a regionally))~~ an accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed one hundred eighty days during the school year in any one assignment. Districts or approved private schools employing a teacher holding a substitute certificate in any one assignment for more than thirty days must within twenty days develop a plan of professional learning for the individual that is appropriate to the assignment and designed to support their professional growth and enhance instructional knowledge and skills to meet district needs and better assist students in meeting the state learning goals. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators (~~whose~~) who hold or have held a regular state of ((reg-  
ular)) Washington certificates ((have expired)). Provided: Educational staff associates may only substitute in the role of their certificate; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at (~~regionally~~) accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 181-79A-257 (1)(c) and (d); or

(iv) Persons who hold or have held a continuing career and technical education teacher certificate.

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(c) To ensure that related services personnel deliver special education services in their respective discipline or profession, the office of superintendent of public instruction may not issue emergency substitute certificates for individuals to serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b)(2)(ii).

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 181-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.



(6) Intern substitute teacher certificate.

(a) School districts and approved private schools may request intern substitute teacher certificates for persons enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

(7) Transitional certificate.

(a) An individual whose continuing or residency certificate has expired according to WAC 181-85-040 or 181-79A-251 may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must successfully complete the external assessment established by the professional educator standards board within two years of the date the holder was issued the transitional certificate in order to continue to be employed: Provided, five years has elapsed since the final renewal expired and the teacher registers and passes the professional certificate assessment within the two years under WAC 181-79A-251. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(b) No individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 181-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable and may not be reissued.

(8) Provisional alternative administrative certificate.

(a) This certificate shall be issued to individuals admitted to the professional educator standards board alternative route to principal certification pilot program.

(b) The certificate is valid for one year from date of issue.

(c) A comprehensive assessment of the intern's performance by school officials and program faculty and a recommendation that the person be issued a residency principal certificate upon successful completion of the program.

**WSR 16-11-049**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed May 13, 2016, 9:30 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: Chapter 246-296 WAC, Drinking water state revolving fund loan program (loan program), the department of health is proposing to incorporate changes from Public water systems—Financial assistance activities, chapter 111, Laws of 2016 regular session, (SESB [2ESB] 5251), which transferred administrative responsibilities of the loan program from the department of commerce and the public works board to the department of health. The proposal includes changes to definitions to align with other drinking water rules for consistency.

Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: June 28, 2016.

Submit Written Comments to: Theresa Phillips, Washington State Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, e-mail <http://www3.doh.wa.gov/policyreview/>, by June 21, 2016.

Assistance for Persons with Disabilities: Contact Theresa Phillips by June 14, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is [to] amend chapter 246-296 WAC by removing references to the department of commerce and public works board as a result of the passage of SESB [2ESB] 5251, and to update definitions to align with other drinking water rules. Administering the loan program in a single agency will increase program effectiveness and efficiency and result in more funding for public water system infrastructure improvements.

Reasons Supporting Proposal: To better protect public health, the transfer of administrative activities to one agency reduces the time frame for awarding loans so that public water systems can start and complete infrastructure projects sooner.

Statutory Authority for Adoption: RCW 70.119A.170 as amended by SESB [2ESB] 5251.

Statute Being Implemented: RCW 70.119A.170 as amended by SESB [2ESB] 5251.

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

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3147; Implementation and Enforcement: Janet Cherry, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3153.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference, without material change, federal statutes or

regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards].

May 13, 2016  
Clark Halvorson  
Assistant Secretary

AMENDATORY SECTION (Amending WSR 16-06-100, filed 3/1/16, effective 4/1/16)

**WAC 246-296-010 Purpose and scope.** The purpose of this chapter is to:

- (1) Establish a funding program for public water system infrastructure improvements that increase a public water system's ability to provide safe and reliable drinking water and improve public health protection;
- (2) Establish eligibility criteria for public water systems to receive funding including, but not limited to, proper operation, management, and maintenance consistent with federal DWSRF capacity requirements;
- (3) Provide additional financial assistance to eligible disadvantaged communities;
- (4) Provide DWSRF loans in response to an emergency;
- (5) Use a portion of the EPA capitalization grant for set-aside activities according to federal law;
- (6) Establish that sound financial practices and ongoing oversight are in place to manage the DWSRF in perpetuity;
- (7) Establish requirements for public water systems to receive a DWSRF loan including, but not limited to, planning requirements; being resource efficient, sustainable, and environmentally sound;
- (8) Establish requirements for public water systems to receive a DWSRF loan in response to an emergency; and
- (9) Establish the responsibilities of the department (~~the board, and commerce~~) for administering the DWSRF loan program.

AMENDATORY SECTION (Amending WSR 16-06-100, filed 3/1/16, effective 4/1/16)

**WAC 246-296-020 Definitions, abbreviations, and acronyms.** The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

- (1) **"Affordability"** means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.
- (2) **"Application"** means the DWSRF loan request form provided by the department.
- (3) **"Application package"** means the DWSRF loan application form(s), requirements, terms of assistance, and

related information created by the department (~~the board, and commerce~~).

(4) (~~"Board"~~) means the Washington state public works board.

(5) **"Borrower"** means the person that has legal and financial responsibility for the DWSRF loan.

(6) **"Capitalization grant"** means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(7) (~~"Commerce"~~) means the Washington state department of commerce.

(8) **"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

- (a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;
- (b) Physical capacity changes;
- (c) Satisfactory test results; and
- (d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(9) **"Default"** means failure to meet a financial obligation such as a DWSRF loan payment.

(10) **"Department"** means the Washington state department of health.

(11) **"Disadvantaged community"** means the service area of a proposed project within a public water system where the project will result in:

- (a) Water rates that are more than one and one-half percent of the MHI of the service area; or
- (b) Restructuring, when one or more public water systems are having financial difficulties.

(12) **"DWSRF (drinking water state revolving fund)"** means the program that meets the requirements of RCW 70.119A.170 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(13) **"DWSRF loan"** means an agreement between the (~~board~~) department and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(14) **"DWSRF loan fee"** means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(15) **"Ecology"** means the Washington state department of ecology.

(16) **"Eligible public water system"** means a Group A community public water system, either privately or publicly owned, or a nonprofit Group A noncommunity public water system.

(17) **"Emergency"** means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

~~((18))~~ (16) **"EPA"** means the United States Environmental Protection Agency.

~~((19))~~ (17) **"Green project"** means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

~~((20))~~ (18) **"Group A public water system"** ~~((means a public water system providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act, P.L. 104-182, Section 101(b)).~~

~~A Group A public water system is further defined as a community or noncommunity public water system.~~

~~(a) "Community public water system" means any Group A public water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five people year-round more than one hundred eighty days per year, as defined in chapter 246-290 WAC.~~

~~(b) "Noncommunity public water system" means a Group A public water system that is not a community public water system. Noncommunity public water systems are further defined as:~~

~~(i) "Nontransient noncommunity public water system" means a public water system that serves twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.~~

~~(ii) "Transient noncommunity public water system" means a public water system that serves:~~

~~(A) Twenty-five or more different people each day for sixty or more days within a calendar year;~~

~~(B) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or~~

~~(C) One thousand or more people for two or more consecutive days within a calendar year.~~

~~(21))~~ (19) **"Group B public water system"** means a public water system that is not a Group A public water system ~~(--A public water system is classified as a Group B public water system if it serves fewer than fifteen service connections, and:~~

~~(a) Fewer than twenty-five people; or~~

~~(b) Twenty-five or more people per day for less than sixty days per year provided the public water system does not serve one thousand or more people for two or more consecutive days.~~

~~((22))~~ (20) **"Individual water supply system"** means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

~~((23))~~ (21) **"IUP (intended use plan)"** means the federally required document prepared each year by the department identifying the intended uses of the DWSRF funds and describing how those uses support the DWSRF goals.

~~((24))~~ (22) **"Loan closeout"** means a loan agreement is complete when the loan is repaid in full.

~~((25))~~ (23) **"MHI (median household income)"** means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

~~((26))~~ (24) **"Multiple benefit"** means projects that address more than one type of health risk.

~~((27))~~ (25) **"Municipality"** means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

~~((28))~~ (26) **"NEPA"** means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

~~((29))~~ (27) **"Nonprofit organization"** means an entity that has a federal tax exempt status identification number.

~~((30))~~ (28) **"Owner"** means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

~~((31))~~ (29) **"Person"** means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

~~((32))~~ (30) **"Principal forgiveness"** means that a reduction of a percentage of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

~~((33))~~ (31) **"Project report"** means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

~~((34))~~ (32) **"Public water system"** ~~((means any public water system providing water for human consumption through pipes or other constructed conveyances, excluding water systems serving only one single-family residence and water systems with four or fewer connections, all of which serve residences on the same farm. This includes:~~

~~(a) Collection, treatment, storage, and distribution facilities under control of the owner, or owner's authorized agent, primarily used in connection with the public water system; and~~

~~((b))~~ Collection or pretreatment storage facilities not under the control of the owner, or owner's authorized agent, but primarily used in connection with the public water system)) is defined and referenced under WAC 246-290-020.

~~((35))~~ (33) "Receivership" means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

~~((36))~~ (34) "Regional benefit" means project improvements that affect more than one public water system.

~~((37))~~ (35) "Restructuring" means changing public water system ownership((s)) including, but not limited to:

(a) Consolidation of two or more existing public water systems into a single public water system;

(b) Transfer of ownership; or

(c) Receivership.

~~((38))~~ (36) "SDWA (Safe Drinking Water Act)" means Public Law 93-523, including all amendments.

~~((39))~~ (37) "SEPA" means the State Environmental Policy Act under chapter 43.21C RCW.

~~((40))~~ (38) "Set-aside" means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

~~((41))~~ (39) "SERP (state environmental review process)" means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

~~((42))~~ (40) "Surface water" means a body of water open to the atmosphere and subject to surface runoff.

~~((43))~~ (41) "Sustainable" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

~~((44))~~ (42) "SWSMP (small water system management program)" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

~~((45))~~ (43) "System capacity" means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

~~((46))~~ (44) "Transfer of ownership" means to change legal ownership of a public water system from one person to another.

~~((47))~~ (45) "Water right" means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

~~((48))~~ (46) "WFI (water facilities inventory)" means a department form summarizing a public water system's characteristics.

~~((49))~~ (47) "WSP (water system plan)" means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to com-

ply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-030 Administration.** (1) ~~((The department, the board, and commerce shall jointly administer the DWSRF program.~~

~~((2))~~ The department shall:

(a) Apply for and receive the DWSRF grant from EPA;

(b) Manage the use of DWSRF set-aside funds for regulatory purposes and technical assistance to public water systems as authorized under the SDWA;

(c) Annually develop ranking values for the criteria under WAC 246-296-130 by assigning the highest value to proposed projects that resolve the most significant public health problems;

(d) Provide guidance to public water systems before the yearly application cycle begins;

(e) Publish the ranking values in the funding application package;

(f) Determine public water system and project eligibility for DWSRF loans;

(g) Develop lists of proposed projects for DWSRF loans in priority order; and

~~((Present lists of proposed projects to the board; and~~  
~~((Submit the IUP to EPA.~~

~~((3))~~ (2) The department shall include the following information in the IUP:

(a) The DWSRF loan fee account;

(b) The current fee; and

(c) The account balance.

~~((4))~~ (3) The ~~((board))~~ department shall select projects to receive DWSRF funding based on the criteria under WAC 246-296-140.

~~((5) Commerce)~~ (4) The department shall:

(a) ~~((Act as the board's administrative agent;~~

~~((b))~~ Require borrowers to comply with the terms of their DWSRF loan agreements;

~~((e))~~ (b) Manage DWSRF loan finances, including fiscal tracking and billing; and

~~((f))~~ (c) Verify that accounting, audit, and fiscal procedures conform to applicable federal government regulations.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-040 Use of funds by the state.** (1) The department may use the following funds to carry out the purposes of the DWSRF:

(a) Capitalization grants provided by the federal government;

(b) State matching funds appropriated under RCW 70.119A.170;

(c) Principal and interest payments;

(d) DWSRF loan fees; and

(e) Any other funds earned and deposited.

(2) The department may use these funds to:

(a) Finance DWSRF loans for planning, design, and construction of public water system infrastructure projects that will address or prevent violations of applicable federal, state, and local drinking water requirements;

(b) Finance reasonable costs for the department (~~the board, and commerce~~) to administer the DWSRF program; and

(c) Fund set-aside activities authorized in categories (b) through (e) of Section 35.3535 of the SDWA, including:

- (i) DWSRF program administration;
- (ii) Technical assistance specific to small public water systems;
- (iii) State drinking water program management; and
- (iv) Local assistance and other state programs.

**AMENDATORY SECTION** (Amending WSR 16-06-100, filed 3/1/16, effective 4/1/16)

**WAC 246-296-050 DWSRF loan terms.** (1) The (~~board~~) department may approve a DWSRF loan for a project that will not serve a disadvantaged community at or below market interest rates for a maximum of twenty years from project completion.

(2) The (~~board~~) department may approve a DWSRF loan for projects that will serve disadvantaged communities:

(a) At an interest rate set at or below market interest rates for up to thirty years, as long as the DWSRF loan does not exceed the useful life of the project;

(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or

(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan.

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department (~~and the board~~) shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

**AMENDATORY SECTION** (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-060 Establishing a DWSRF loan fee, loan fee account, and loan fee uses.** (1) The department (~~and board~~) shall:

(a) Establish the terms of a DWSRF loan fee; and

(b) Annually set the DWSRF loan fee amount.

(2) The (~~board~~) department shall set the DWSRF loan fee for each project.

(3) The DWSRF loan amount may include the DWSRF loan fee.

(4) The department (~~and board~~) shall determine the amount of DWSRF loan fee account funds to be used for program administration.

(5) The department (~~commerce, and the board~~) shall use DWSRF loan fees only for program administration activities.

(6) (~~Commerce~~) The department shall deposit and retain DWSRF fees in a dedicated DWSRF loan fee account.

**AMENDATORY SECTION** (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-120 Annual DWSRF loan application responsibilities.** Annual DWSRF loan application responsibilities are established as follows:

(1) Applicants shall submit a completed application package to the department on or before the due date in the application package.

(2) The department shall:

(a) Determine the eligibility of the project;

(b) Rank the project using the ranking criteria established under WAC 246-296-130;

(c) Create a prioritized list of eligible projects in order of public health significance;

(d) Develop an IUP by:

(i) Publishing a draft IUP for public review and comment; and

(ii) Amending the IUP, if necessary, after considering public comments.

(e) Submit a capitalization grant application, including the final IUP, to EPA for review and approval;

(f) Revise the IUP if EPA requires changes; and

(g) Provide for administrative review and dispute resolution under WAC 246-296-160.

(3) The (~~board~~) department shall:

(a) Determine if each applicant with a project on the prioritized IUP is financially capable and ready to proceed, using the criteria under WAC 246-296-140;

(b) Select projects on the IUP to receive assistance from the fund using the criteria under WAC 246-296-140; and

(c) Provide for administrative review and dispute resolution of departmental (~~or board~~) decisions under WAC 246-296-160.

**AMENDATORY SECTION** (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-130 Project priority rating and ranking criteria.** The department shall, at a minimum, consider the following to assign points, and rate and rank proposed projects:

(1) Criteria for risk categories and points based on:

(a) Type and significance of public health problems the project will resolve;

(b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water requirements;

(c) Current compliance status; and

(d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system.

(2) Additional points based on the type of project being proposed, if the project:

(a) Is to restructure a public water system;

(b) Creates a sustainable regional public health benefit;

(c) Has multiple benefits that are sustainable;

- (d) Is consistent with the Growth Management Act as determined by (~~commerce~~) the department;
- (e) Is financially sustainable;
- (f) Qualifies as a green project;
- (g) Serves a disadvantaged community; or
- (h) Results in service meters on existing services not currently metered.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-140 Final project selection criteria.**

When awarding a DWSRF loan to a public water system, the (~~board~~) department shall consider, at a minimum, the applicant's ability to:

- (1) Repay the DWSRF loan based on a risk assessment;
- (2) Provide adequate security in case of DWSRF loan default; and
- (3) Promptly begin the project based on past contract performance, if applicable.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-150 DWSRF loan conditions.** (1) A borrower shall comply with all applicable laws, regulations, and requirements.

(2) A DWSRF loan agreement must address applicable federal, state, and local laws, orders, regulations, and permits; including, but not limited to:

- (a) Procurement;
- (b) Nondiscrimination;
- (c) Labor;
- (d) Job safety;
- (e) National Historic Preservation Act;
- (f) Drug-free environments; and
- (g) State and federal disadvantaged business regulations, such as those designed to help minority and women-owned businesses.

(3) A borrower shall maintain accounting records that conform to generally accepted government accounting standards issued by the Comptroller General of the United States, available at <http://www.gao.gov/yellowbook>;

- (4) A borrower shall document its legal ability to:
  - (a) Provide a dedicated source of revenue; and
  - (b) Guarantee the repayment of the DWSRF loan from that dedicated source. Dedicated sources of revenue may include:
    - (i) Special assessments;
    - (ii) General taxes;
    - (iii) General obligation bonds;
    - (iv) Revenue bonds;
    - (v) User charges;
    - (vi) Rates;
    - (vii) Fees; and
    - (viii) Other sources.

(5) A borrower shall submit a construction completion report for all project components and other documentation as required under chapter 246-290 WAC.

(6) A borrower shall comply with any EPA or department orders and compliance schedules during the term of the DWSRF loan agreement.

(7) The department(~~, the board,~~) and the borrower shall approve amendments to the DWSRF loan agreement as needed.

(a) The DWSRF loan agreement must be amended:

- (i) For significant changes to the project's original ranked application and project scope of work; or
- (ii) If additional time is needed to complete project activities.

(b) Amendments to the DWSRF loan agreement are not required when adjustments are made at loan closeout to reconcile minor differences between the contract and the completed project.

(8) (~~Commerce~~) The department, or its authorized auditor shall audit the borrower's records.

(9) The (~~board~~) department may terminate the DWSRF loan agreement in whole or in part at any time if the borrower:

(a) Fails to comply with the terms of the DWSRF loan agreement under this chapter; or

(b) Uses the DWSRF loan proceeds for activities other than those identified in the DWSRF loan agreement.

(10) The (~~board~~) department shall, upon termination of a DWSRF loan agreement:

- (a) Promptly notify the borrower in writing of its:
  - (i) Decision to terminate the loan agreement;
  - (ii) Reason for terminating the loan agreement;
  - (iii) Effective date of termination; and
- (b) Require immediate payment of the entire remaining balance of the DWSRF loan and any interest accrued.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-160 Administrative review and dispute resolution.** (1) An applicant may request that the department reconsider a decision of ineligibility under WAC 246-296-070, 246-296-080, and 246-296-090. The request must be:

(a) Sent in writing to the department at: P.O. Box 47822, Olympia, Washington, 98504-7822; and

(b) Received within ten working days of the date the department notifies the applicant of the decision.

(2) An applicant that disagrees with the department's decision about rating and ranking its application under WAC 246-296-130 may submit comments to the department during public review of the draft IUP.

(3) An applicant may request a review of the decision by the (~~board~~) department about its DWSRF loan application. A request for review must be received by the (~~board~~) department in writing at least fourteen calendar days before a scheduled (~~board~~) department meeting.

**WSR 16-11-051**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed May 13, 2016, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-08-019.

Title of Rule and Other Identifying Information: Chapter 246-562 WAC, Physician visa waivers (J-1 visa waiver program), proposing amending selected sections to update and streamline rules to meet current federal regulations, reduce administrative requirements, and increase the number of physicians serving rural and underserved areas of the state.

Hearing Location(s): Washington State Department of Health, Town Center 2, 111 Israel Road S.E., Room 158, Tumwater, WA 98501, on July 6, 2016, at 9:30 a.m.

Date of Intended Adoption: July 13, 2016.

Submit Written Comments to: Renee Fullerton, Community Health Systems, P.O. Box 47583, Olympia, WA 98504, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2830, by July 6, 2016.

Assistance for Persons with Disabilities: Contact Mary Roberts by June 29, 2016, at (360) 236-2804, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of health (department) is proposing amending selected sections of the J-1 visa waiver program to: (1) Better align with federal requirements to increase access to care for underserved populations; (2) simplify application and reporting requirements where possible; and (3) better allocate the scarce resource[s] of the program's thirty physician sponsorships to areas most in need and with practices that do the most to increase access to care for medicaid clients, low income individuals, and other underserved populations.

Reasons Supporting Proposal: Part of the rule changes are in response to Public Law 110-362 passed in 2008. This federal law increased the number of waivers that the department can grant to facilities located in nonshortage areas from five to ten. The rules were last updated in 2006 and do not include this federal change. The proposed rules also reduce regulatory burdens without compromising public health per RCW 43.70.041 by removing barriers to applicants, simplifying and clarifying the application process, and allowing applying health care facilities and communities greater access to qualified physicians.

Statutory Authority for Adoption: RCW 70.185.040.

Statute Being Implemented: RCW 70.185.020.

Rule is necessary because of federal law, P.L. 110-362.

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Renee Fullerton, 111 Israel Road S.E., Tumwater, WA, (360) 236-2814.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by

contacting Renee Fullerton, Community Health Systems, P.O. Box 47853, Olympia, WA 98504-7853, phone (360) 236-2814, fax (360) 236-2830, e-mail [renee.fullerton@doh.wa.gov](mailto:renee.fullerton@doh.wa.gov).

May 13, 2016

John Wiesman, DrPH, MPH  
 Secretary

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-010 Definitions.** ~~((The following definitions apply in the interpretation and implementation of these rules-))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Applicant" means ~~((a health care facility that seeks to employ a physician))~~ an entity with an active Washington state business license that provides health care services and seeks to employ a physician at a Washington state practice location(s) and is requesting state sponsorship or concurrence of a J-1 visa waiver.

(2) "Department" means the Washington state department of health.

(3) "Board eligible" means having satisfied the requirements necessary to sit for board examinations.

(4) "Employment contract" means a legally binding agreement between the applicant and the physician named in the visa waiver application ~~((which))~~ that contains all terms and conditions of employment~~((;))~~ including, but not limited to, the salary, benefits, length of employment and any other consideration owing under the agreement.

(5) "Full time" means a minimum forty hours of medical practice per week, not including call coverage, consisting of at least thirty-two hours seeing patients on an ambulatory or in-patient basis and may include up to eight hours administrative work for at least forty-eight weeks per year.

~~((("Health care facility" means an entity with an active Washington state business license doing business or proposing to do business in the practice location where the physician would be employed, whose stated purposes include the delivery of medical care.~~

~~((7))~~ "Health professional shortage area" ~~((or "HPSA((3))"))~~ means an area federally designated as having a shortage of primary care physicians or mental health care.

(7) "Integrated health care system" (system) means an organized system in which more than one health care entity participates, and in which the participating entities:

(a) Hold themselves out to the public as participating in a joint arrangement; and

(b) Participate in joint payment activities, such as clinics where a physician group charges a professional fee and a hospital charges a facility fee.

(8) "Hospitalist" means a physician, usually an internist, who specializes in the care of hospitalized patients.

(9) "Low income" means that a family's total household income is less than two hundred percent of the federal poverty level as defined by the *U.S. Federal Poverty Guidelines* published annually.

~~((("Medically underserved area" (MUA) means a federally designated area based on whether the area exceeds~~

~~a score for an Index of Medical Underservice, a value based on infant mortality, poverty rates, percentage of elderly and primary care physicians to population ratios.~~

~~((14))~~ "Physician" means the foreign physician ~~(;)~~ eligible to be licensed under chapter 18.71 or 18.57 RCW named in the visa waiver application, who requires a waiver to remain in the United States to practice medicine.

(11) "Practice location" means the physical location where the visa waiver physician will work.

(12) "Primary care physician" means a physician board certified or board eligible in family practice, general internal medicine, pediatrics, obstetrics/gynecology, geriatric medicine or psychiatry. Physicians who have completed any subspecialty or fellowship training, excluding OB or geriatric training, are not considered primary care physicians for the purpose of this chapter.

(13) "Publicly funded employers" means organizations such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations.

(14) "Sliding fee discount schedule" means a written delineation documenting the value of charge discounts granted to patients based upon ~~((financial hardship.~~

(14)) family income up to two hundred percent of the annual federal poverty guidelines.

(15) "Specialist" means a physician board certified or board eligible in a specialty other than family practice, general internal medicine, pediatrics, obstetrics/gynecology, geriatric medicine or psychiatry (the current definition of "primary care" for the waiver program).

~~((15))~~ (16) "Sponsorship" means a request by the department on behalf of ((a health care facility)) an applicant to federal immigration authorities to grant a visa waiver for the purpose of recruiting and retaining physicians.

~~((16))~~ (17) "Visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, to return to his/her home country for a two-year period following medical residency training.

~~((17))~~ (18) "Vacancy" means a full-time physician practice opportunity that is based on a planned retirement, a loss of an existing physician, or an expansion of physician services in the service area.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-020 Authority to sponsor visa waivers.** (1) The department ~~((of health))~~ may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, by exercising an option provided in federal law ~~((, 8 U.S.C. Sec. 1184(l) as amended by Public Law 108-441 and 22 C.F.R. 514.44(e))).~~ This option allows the department ~~((of health))~~ to sponsor a limited number of visa waivers each federal fiscal year if certain conditions are met.

(2) The department may acknowledge and support as needed sponsorship proposed by federal agencies, including the United States Department of Health and Human Services.

(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:

(a) To increase the availability of physician services in existing federally designated ~~((shortage areas))~~ health professional shortage areas (HPSA) for ~~((health care facilities))~~ applicants that have long standing vacancies;

(b) To improve access to physician services for communities and specific underserved populations that are having difficulty finding physician services;

(c) To serve Washington communities ~~((which))~~ that have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for ~~((primary))~~ health care services ~~((or specialist services as allowed by WAC 246-562-080)).~~

(4) The department may only sponsor a visa waiver request when:

(a) The application contains all of the required information and documentation;

(b) The application meets the criteria contained in this chapter ((246-562-WAC));

(c) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions.

~~(5) ((The department will limit its activities:~~

~~(a))~~ Prior to submission of an application, the department may provide information on preparing a complete application ~~(;~~

~~(b) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions;~~

~~(c) Because the number of sponsorships the department may provide is limited, and because the number of shortage areas is great, sponsorship will be limited. In any single program year, a health care facility in any one designated health professional shortage area or medically underserved area:~~

~~(i) Will not be allotted more than two sponsorships;~~

~~(ii) Will not be allotted more than one specialist sponsorship as allowed by WAC 246-562-080(4); and~~

~~(iii) Will not be allotted more than one hospitalist sponsorship per hospital;~~

~~(d) In any given program year twenty of the federally allocated sponsorships will be allotted for primary care physicians and ten of the federally allocated sponsorships will be allotted for specialists through March 31. Any waiver sponsorships that remain unfilled on April 1 of each program year will be available to:~~

~~(i) Both primary care and specialist physicians consistent with the provisions of this chapter; and~~

~~(ii) Physicians intending to practice in nondesignated shortage areas in health care facilities that meet the criteria in WAC 246-562-075)).~~

(6) In any single federal fiscal year the department will limit the number of sponsorships granted to each applicant. Applicants, including integrated health care systems, in a single HPSA:

(a) Will not be allotted more than two sponsorships per practice location;



(b) Will not be allotted more than one hospitalist sponsorship per hospital;

(c) Will not be allotted more than three sponsorships total across all practice locations in the HPSA between October 1st and May 31st of the federal fiscal year.

(7) Applicants located outside designated HPSAs will be allotted no more than three sponsorships across all practice locations in a single county.

(8) Between October 1st and March 31st of the federal fiscal year the department will grant not more than ten specialist waivers. Any waiver sponsorships that remain unfilled on April 1st of each federal fiscal year will be available to both primary care and specialist physicians consistent with the provisions of this chapter.

(9) Starting January 1st of each federal fiscal year, the department will consider applications for physicians intending to practice in areas without a HPSA designation for applicants that meet the criteria in WAC 246-562-075.

(10) Starting June 1st of each federal fiscal year, the department will consider applications for additional sponsorships from applicants who have already received their maximum three waivers in a single HPSA.

<u>Type of sponsorship</u>	<u>Application timeline and conditions</u>
<u>Primary care in HPSA</u>	<u>Available starting Oct. 1 until state reaches annual federal cap</u>
<u>Specialist in HPSA</u>	<u>Limited to 10 sponsorships from Oct. 1 - March 31, no restriction starting April 1 until state reaches annual federal cap</u>
<u>Nondesignated area (FLEX waiver)</u>	<u>Available starting Jan. 1, limited to 10 total in a federal fiscal year</u>
<u>More than 3 waivers for a single employer</u>	<u>Available starting June 1 until state reaches annual federal cap</u>

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

**WAC 246-562-040 Principles that will be applied to the visa waiver program.** (1) The visa waiver program is considered a secondary source for recruiting qualified physicians. It is not a substitute for broad recruiting efforts for graduates from U.S. medical schools.

(2) Sponsorship may be offered to ~~((health care facilities))~~ applicants that can provide evidence of sustained active recruitment for the vacancy in the practice location ~~((with))~~ for a physician who has specific needed skills.

(3) Sponsorship is intended to support introduction of physicians into practice settings that promote continuation of the practice beyond the initial contract period.

(4) Sponsorship will be for an employment situation where there is community support and a collegial professional environment.

(5) The visa waiver program will be used to assist ~~((health care facilities))~~ applicants that provide care to all residents of the federally designated ~~((under-served area))~~ HPSA. When a ~~((federal))~~ HPSA designation is for ~~((an under-served))~~ a population ~~((;))~~ group as approved by the federal Health Research and Services Administration as defined by 42 C.F.R. Chapter 1, Part 5, Appendices A or C, the ~~((health care facility))~~ applicant must provide care to the ~~((under-served))~~ population group.

(6) Sponsorship is available to ~~((health care facilities))~~ applicants that can document the provision of needed services, regardless of public or private ownership.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-050 Review criteria.** Applicants and physicians must meet all federal criteria for international medical graduates seeking a visa waiver including the criteria established in 8 U.S.C. ~~((1184(l) as amended by Public Law 108-441 and 22 C.F.R. Sec. 514.44(e))~~ which are incorporated by reference. Copies of these provisions may be requested from the department by writing to the Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

~~The criteria set out in chapter 246-562 WAC must also be met))~~ Sec. 1182(e), 8 U.S.C Sec. 1184(1), and 22 C.F.R. Sec. 41.63(e).

Applicants must also meet the criteria in this chapter.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-060 Criteria for applicants.** (1) Applicants must ~~((be existing health care facilities that))~~:

(a) ~~((Are))~~ Be licensed to do business in Washington state; and

(b) Have provided medical care in Washington state for a minimum of twelve months prior to submitting the application.

(2) Applicants may be for-profit, nonprofit, or government organizations.

(3) Except for state ~~((institutional and))~~ psychiatric or correctional facilities ~~((designated as federal shortage areas))~~, the applicant must:

(a) Currently serve:

(i) Medicare clients;

(ii) Medicaid clients;

(iii) Low-income clients ~~((, such as subsidized basic health plan enrollees))~~;

(iv) Uninsured clients; and

(v) The population of the federal designation, if applicable.

(b) Demonstrate that during the twelve months prior to submitting the application, the ~~((health care facility was providing a minimum of ten percent of the applicant's total patient visits to medicaid clients, and/or other low-income clients.~~

(e) Agree to implement a sliding fee discount schedule for the physician named in the J-1 visa waiver application. The schedule must be:

~~(i) Available in the client's principal language and English; and~~

~~(ii) Posted conspicuously; and~~

~~(iii) Distributed in hard copy to individuals making or keeping appointments with that physician;)) practice location(s) where the physician will work provided a minimum of fifteen percent of total patient visits to medicaid and other low-income clients. Clients dually eligible for medicare and medicaid may be included in this total.~~

(c) Have or agree to implement a sliding fee discount schedule for the practice location(s) in the J-1 visa waiver application. The schedule must be:

(i) Available in the client's principal language and English;

(ii) Posted conspicuously;

(iii) Distributed in hard copy upon patient request; and

(iv) Updated annually to reflect the most recent federal poverty guidelines.

(4) Applicants must provide documentation demonstrating that the employer made a good faith effort to recruit a qualified graduate of a United States medical school for a physician vacancy in the same salary range.

(a) Active recruitment, specific to the location and physician specialty, must be for a period of not less than six months in the twelve months prior ((to submitting a visa waiver application to the department)) to signing an employment contract with the J-1 visa waiver physician. Active recruitment documentation can include one or more of the following:

~~((a))~~ (i) Listings in national publications;

~~((b))~~ (ii) Web-based advertisements;

~~((c))~~ Statewide newspaper advertisements;

~~((d))~~ (iii) Contractual agreement with a recruiter or recruitment firm; or

~~((e))~~ (iv) Listing the position with the ((office of community and rural health;)) department recruitment and retention program.

(b) In-house job postings and word-of-mouth recruitment are not considered active recruitment for the purpose of the J-1 physician visa waiver program((; however, they can be used in addition to the methods described in (a) through (e) of this subsection)).

(5) Applicants must have a signed employment contract with the physician. The employment contract must:

(a) Meet state and federal requirements throughout the period of obligation, regardless of physician's visa status;

(b) Not prevent the physician from providing medical services in the designated ~~((shortage area))~~ HPSA after the term of employment ~~((i.e., no noncompete clauses;))~~ including, but not limited to, noncompetition clauses; and

(c) Specify the three year period of employment(~~;~~

~~(i) Three years minimum for primary care sponsorship; or~~

~~(ii) Five years minimum for specialist sponsorship)).~~

(6) Any amendments made to the required elements of the employment contract(~~;~~) under subsection (5) of this section(~~;~~) during the first three years ~~((for primary care physi-~~

~~icians or five years for nonprimary care specialist physicians))~~ of contracted employment must be reported to the department for review and approval. The department will complete review and approval of such amendments within thirty calendar days of receipt.

(7) Applicants must pay the physician ~~((prevailing wage as determined and approved by U.S. Department of Labor. Approval must be documented on a U.S. Department of Labor form ETA 9035 signed by an authorized official))~~ at least the required wage rate as referenced by the federal Department of Labor at 20 C.F.R. Sec. 655.731(a) for the specialty in the area or as set by negotiated union contract.

(8) If the applicant has previously requested sponsorship of a physician, WAC 246-562-020 ~~(4)(c)~~ will apply.

~~(9) ((If the applicant is not a publicly funded provider, additional criteria apply. The applicant must provide documentation of notification of intent to submit application for J-1 visa physician waiver to all publicly funded providers who provide medical care in HPSA or MUA designated area. Publicly funded providers include, but are not limited to, public hospital districts, local health departments, or community and/or migrant health centers.~~

Notification must:

~~(a) Be sent at least thirty days prior to submitting the application to the department;~~

~~(b) Include a statement giving the publicly funded providers thirty days to provide comment to the department regarding the J-1 physician visa application; and~~

~~(c) Provide the department's address.~~

~~(10)) Applicants must submit status reports to the department every ~~((six))~~ twelve months, with required supporting documentation, during the initial term of employment(~~;~~ three years for primary care physicians or five years for specialists)).~~

(10) Physicians with a J-1 visa waiver must submit annual surveys to the department during their obligation period and a final survey one year after they complete their obligation so that the department can evaluate physician retention.

(11) Applicants must cooperate in providing the department with clarifying information, verifying information already provided, or in any investigation of the applicant's financial status.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-070 Criteria for the proposed practice location to be served by the physician.** (1) The proposed practice location(s) must be located in:

(a) A federally designated primary care ~~((health professional shortage area(s)))~~ HPSA(s); or

(b) A federally designated mental ~~((health professional shortage area(s)))~~ HPSA(s) for psychiatrists(~~;~~ or

~~(c) A federally designated whole-county medically underserved area(s); or~~

~~(d) A combination of federally designated areas);~~ or

(c) A state operated psychiatric or correctional facility.

(2) If the federal designation is based on a specific population, the ~~((health care facility))~~ applicant must serve the designated population.

(3) ~~((If the practice location is in both a population designation area and a medically underserved area, the designated population must be served.~~

(4)) If the practice location is not located in a federally designated ~~((shortage area or whole county medically underserved area;))~~ HPSA or a state correctional or psychiatric institution the applicant must meet the criteria in WAC 246-562-075.

~~((5) The health care facility))~~ (4) The practice location named in the visa waiver application may be an existing practice location or a new practice location. If a new practice location is planned, the additional criteria in (a) through (c) of this subsection apply. New practice locations must:

(a) Have the legal, financial, and organizational structure necessary to provide a stable practice environment, and must provide a business plan that supports this information;

(b) Support a full-time physician practice;

(c) Have written referral plans that describe how patients using the new ~~((primary care))~~ location will be connected to ~~((existing secondary and tertiary))~~ other care if needed.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-075 Criteria for waiver sponsorships in nondesignated ~~((shortage))~~ areas.** ~~((Public Law 108-441 allows states to sponsor up to five waivers each program year for physicians who will practice medicine in a health care facility that is not located in a designated health professional shortage area but serves patients who reside in designated shortage areas. Waivers will not be open to physicians practicing in nondesignated shortage areas until April 1 of each program year. For waiver approval, the health care facility must:~~

~~(1) Provide care to patients who reside in designated shortage areas:~~

~~(a) Describe the facility's service area.~~

~~(b) Provide a patient visit report that identifies total patient visits in last six months of service by patient origin zip code.~~

~~(2) Describe who will benefit from the physician's services:~~

~~(a) Identify the percentage of medicaid and medicare patients who will have access to this physician.~~

~~(b) Describe how the facility will assure access to this physician for low-income or uninsured patients.~~

~~(c) Explain if the physician has language skills that will benefit patients at this facility.~~

~~(3) Provide a detailed report of the extensive recruitment efforts made to recruit a U.S. physician for the specific position that the J-1 physician will fill.~~

~~(a) Explain why this physician is necessary at this location.~~

~~(b) Explain why it is difficult to recruit a U.S. physician for this location.~~

~~(c) Provide the number of physicians interviewed for this position.~~

~~(d) Provide the number of physicians offered this position.)~~ Key objectives of the J-1 visa waiver program are to increase access to physicians for low income, medicaid-covered and otherwise medically underserved individuals. Federal law allows states to sponsor a limited number of physicians each federal fiscal year who will practice medicine at a location outside a designated HPSA that serves significant numbers or percentages of patients who reside in designated HPSAs. Sponsorships will not be open to applicants hiring physicians to practice outside HPSA-designated areas until January 1st of each federal fiscal year unless the employer is a state correctional or psychiatric institution.

The determination of appropriateness for a sponsorship in a nondesignated area will take into consideration the following factors.

(1) Nature of the applicant and practice location(s). Certain health care facilities play an important role in serving Washington's medically underserved populations. Specifically, providers of important services to the state's vulnerable population groups, particularly in specialty and tertiary care services draw patients from a large area, including designated HPSAs. Applicants must describe their practice location's service area and to what extent they provide service to residents of designated HPSAs.

(2) Expected patient panel to be served by the sponsored physician. Successful nondesignated waiver applicants must be able to describe:

(a) The percentage the sponsored physician's panel reasonably expected to be medicaid and medicare patients given current use of the service and practice location by those populations.

(b) How the applicant will ensure access to this physician for low-income or uninsured patients.

(c) If there is a unique practice area or substantial referral network making the physician a statewide resource for certain medical conditions.

(d) If the physician has language skills that will benefit patients at the practice location.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-080 Criteria for the physician.** (1) The physician seeking a J-1 visa waiver from Washington state must not have a J-1 visa waiver application pending for any other employment offer. The physician(s) must provide a letter attesting that no other applications are pending.

(2) The physician(s) must have the qualifications described in recruitment efforts for a specific vacancy.

(3) The physician(s) is considered eligible to apply for a waiver when:

(a) ~~((They have))~~ The physician has successfully completed ~~((their))~~ a residency or fellowship program; or

(b) ~~((They are))~~ The physician is in the final year of a residency or fellowship program, and the physician provides a letter from their program that:

(i) Identifies the date the physician will complete the residency or fellowship program; and

(ii) Confirms the physician is in good standing with the program.

(4) The physician(s) must provide direct patient care.

(5) The physician must comply with all provisions of the employment contract set out in WAC 246-562-060.

(6) The physician must:

(a) Accept medicaid assignment; ~~(and~~

~~(b))~~ post and implement a sliding fee discount schedule;  
~~((and~~

~~(e))~~ serve the low-income population; ~~(and~~

~~(d))~~ serve the uninsured population; and

~~((e))~~ serve the ~~((shortage))~~ HPSA designation population; or

~~((f))~~ (b) Serve the population of a local, state, or federal governmental ~~((institution))~~ psychiatric or corrections facility as an employee of the institution.

(7) The physician(s) must have an active ~~((Washington state medical))~~ license under chapter 18.71 or 18.57 RCW. The applicant may substitute a copy of the license application and request an exception if the application ~~((for a Washington state medical license))~~ was submitted to the Washington state medical quality assurance commission or Washington state board of osteopathic medicine and surgery four or more weeks prior to submission of the visa waiver application.

(8) Physicians must be an active candidate for board certification on or before the start date of employment.

(9) Physicians must provide the following documentation:

(a) A current Curriculum Vitae;

(b) U.S. Department of State Data Sheet, Form DS-3035;

(c) All ~~((DS-2019/IAP-66))~~ U.S. Department of State DS-2019 Forms (Certificate of Exchange visitor status);

(d) ~~((Letter from residency program if applying as a primary care physician or from fellowship program if applying as a specialist that:~~

~~(i) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income people in the United States; and~~

~~(ii) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities; and~~

~~(iii) Documents level of specialty training, if any; and~~

~~(iv) Is prepared on residency or fellowship program letterhead and is signed by residency or fellowship program staff or faculty; and~~

~~(v) Includes name, title, relationship to physician, address and telephone number of signatory.~~

~~(e))~~ A physician attestation statement described in subsection (1) of this section;

~~((f))~~ (e) A no objection statement;

~~((g))~~ (f) A personal statement from the physician regarding the reason for requesting a waiver;

~~((h))~~ (g) U.S. Citizenship and Immigration Services (USCIS) I-94 Entry and Departure cards; and

~~((i))~~ (h) USCIS Form G-28 Notice of Entry of Appearance from an attorney, when applicable.

The statements required in (e) and (f) of this subsection may be on a form provided by the department or other format that provides substantially the same information as the department form.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-085 Eligibility for primary care and specialist waivers. (1) Primary care waivers.**

(a) Primary care waivers are available to the following physician specialties:

(i) Family medicine;

(ii) General internal medicine;

(iii) Pediatrics;

(iv) Geriatric medicine;

(v) Obstetrics and gynecology; or

(vi) Psychiatry and its subspecialties.

(b) Physicians who have completed any additional subspecialty training are not eligible for a primary care waiver, with the exception of geriatric medicine and psychiatry. Continuing medical education (CME) will not be considered subspecialty training for the purposes of this rule.

(2) **Specialist waivers.** Specialist waivers are available to nonprimary care physician specialties. Applicants submitting an application for a specialist physician must:

(a) ~~((Demonstrate a need for the nonprimary care specialty by addressing one of the following need criteria:~~

~~(i) The physician specialty is needed to meet state or federal health care facility regulations, for example to maintain the hospital trauma designation level.~~

~~(A) Identify the regulation; and~~

~~(B) Address how the facility is currently meeting this regulation.~~

~~(ii) The physician specialty is needed to address a major health problem in the facility service area.~~

~~(A) Identify the health problem and how this specialty will address it;~~

~~(B) Provide incident rates of the pathology and tie diagnosis codes to payer mix (i.e., how many patients are affected and how many are low income or uninsured?); and~~

~~(C) If this specialty is not available in the community, identify the nearest location where this specialty service can be obtained.~~

~~(iii) The physician specialty is needed to address population to physician ratio because the current ratio does not meet national standards.~~

~~(A) Provide the population to physician ratio for the specialty, include source for data provided;~~

~~(B) Provide the number of physicians (FTE) practicing this specialty in the same health professional shortage area/facility service area;~~

~~(C) Provide the distance to the nearest physician practicing the same specialty; and~~

~~(D) Describe how the demand for the specialty has been handled in the past.~~

~~(b) **Describe the referral system that includes:**~~

~~(i) On-call sharing;~~

~~(ii) Affiliation agreements with other health care entities in the service area, specifically with publicly funded employers, such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations.~~

~~(e) **Provide at least one letter of support for this type of physician specialty** from a primary care provider practicing~~

ing with publicly funded employers, such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations outside of the applicant's organization.

(d) Provide written notice to the department and all publicly funded providers in the health care facility's HPSA or MUA designated area ~~within thirty days~~ of the physician's start date of employment. The notice must include:

(i) ~~The physician's name, employment start date and practice location;~~

(ii) ~~Services to be provided; and~~

(iii) ~~Identification of accepted patients, such as medic-aid, medicare, or basic health plan.)~~ Demonstrate a need for the nonprimary care specialty by using data to show how the physician specialty is needed to address a major health problem in the practice location service area, address a population to provider ratio imbalance, or meet government requirements such as trauma designation regulations.

(b) Describe how this specialty will link to primary care.

(c) Describe how the demand for the specialty has been handled in the past.

(d) Describe the practice location's referral system that includes:

(i) On-call sharing;

(ii) How patients from other health care entities in the service area, specifically publicly funded employers, will be able to access the sponsored physician's services.

(e) Provide written notice to the department and all publicly funded employers in the applicant's HPSA within thirty days of the sponsored physician's start-date of employment. The notice must include:

(i) The sponsored physician's name, employment start date, and practice location;

(ii) Services to be provided; and

(iii) Identification of accepted patients, such as medic-aid, medicare, and the availability of a sliding fee schedule of discounts.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-087 Eligibility for facilities hiring physicians as hospitalists.** (1) ~~((A health care facility))~~ An applicant is limited to one hospitalist sponsorship per hospital per ~~((program))~~ federal fiscal year. Multiple employers at the same location are not allowed.

(2) ~~((A facility))~~ An applicant may only use inpatient data on the patient visit report required in WAC 246-562-060 to demonstrate that ~~((ten))~~ fifteen percent of applicant's total patient visits were to medicaid ~~((and/or))~~ and other low-income patients.

(3) ~~((A facility))~~ An applicant must identify primary care physicians in the community who will accept unattached medicaid, medicare or uninsured patients for follow-up care.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-090 Application form.** ~~((1))~~ Physician visa waiver program application forms are available online at

www.doh.wa.gov/hsqa/ocrh or may be requested from: Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

~~(2))~~ Applications must be completed, address all state and federal requirements, and must include all required documents as specified in the department application form. Applications are available on the department's web site.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-120 Department review and action.**

(1) The department will review applications for completeness in the date order received.

(2) Applications must be mailed, sent by commercial carrier, or delivered in person ~~((Applications may not be sent by telefax, or electronically))~~ as long as the U.S. Department of State requires a paper application.

(3) The department may limit the time period during which applications may be submitted including cutting off applications after the state has sponsored all applications allowed in a given federal fiscal year.

(4) ~~((Should multiple primary care physician applications arrive at the department on the same day, the department will rank those applications according to the following criteria:~~

~~(a) Facilities located in federally designated shortage areas will rank ahead of those facilities located in nondesignated areas.~~

~~(b) Federally designated shortage facilities will rank first.~~

~~(c) Publicly funded employers, such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations, will rank second.~~

~~(d) Critical access hospitals and rural health clinics will rank third.~~

~~(e) All other private practice, for profit facilities will rank last.~~

~~(f) If multiple applications within a designated category arrive on the same day or if a ranked order cannot be determined by using the criteria in (a) through (f) of this subsection, then applications will be ranked by:~~

~~(i) Percentage of services provided to low-income, uninsured and sliding fee based patients;~~

~~(ii) Distance from applicant's practice location to nearest publicly funded provider;~~

~~(iii) Language skill of provider matching those significantly represented in the community;~~

~~(iv) Type of services provided, outpatient versus inpatient; and~~

~~(v) Facility location, rural versus urban based on RUCA codes to most current census data.~~

~~(5) Should multiple specialist applications arrive at the department on the same day, the department will rank these applications according to the following criteria:~~

~~(a) Facilities located in federally designated shortage areas will rank ahead of those facilities located in nondesignated areas.~~

~~(b) Hospitals or other health care facilities at risk of being out of state compliance standards will rank first. For example: The physician specialty is needed to maintain trauma designation or meet certificate of need requirements.~~

~~(c) Federally designated shortage facilities will rank second.~~

~~(d) Publicly funded employers, such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations will rank third.~~

~~(e) All other private practice, for profit facilities will rank last.~~

~~(f) If multiple applications within a designated category arrive on the same day, or if a ranked order cannot be determined by using the criteria in (a) through (e) of this subsection, then applications will be ranked by:~~

~~(i) Percentage of services provided to low-income, uninsured and sliding fee based patients;~~

~~(ii) Distance from applicant's practice location to nearest publicly funded provider;~~

~~(iii) Language skill of provider matching those significantly represented in the community;~~

~~(iv) Type of services provided, outpatient versus inpatient; and~~

~~(v) Facility location, rural versus urban based on RUCA codes to most current census data.~~

~~(6)) If the department receives more complete applications than the number of available waiver slots, priority will be given in the following order:~~

~~(a) Applications submitted by state psychiatric or correctional facilities;~~

~~(b) Applications for physicians working in outpatient primary care practice locations that:~~

~~(i) Are located in a HPSA;~~

~~(ii) Serve the highest percentage of medicaid and other low-income patients; and~~

~~(iii) Are not eligible for another visa waiver program.~~

~~(c) Applications for physicians working in outpatient specialty care practice locations that:~~

~~(i) Are located in a HPSA; and~~

~~(ii) Serve the highest percentage of medicaid and other low-income patients.~~

~~(5) The department will review applications within ten working days of receipt of the application to determine if the application is complete.~~

~~((7) The department will return incomplete applications to the applicant, and provide a written explanation of missing items.~~

~~(8) Incomplete applications may be resubmitted with additional required information. Resubmitted applications will be considered new applications and will be reviewed in date order received on resubmission.~~

~~(9)) (6) The department will notify the applicant if the application is incomplete and will provide an explanation of what items are missing.~~

(7) Applicants with incomplete applications can submit additional documentation; however, the application will not be considered for approval until missing items are received and the application will not retain the date order.

(8) The department will return applications that are received after the maximum number of sponsorships have been approved. This does not apply to copies of other federal ((J-1)) visa waiver applications.

~~((10) The department will return sponsorship applications to applicants who have had two approved sponsorships in the current year for the shortage area.~~

((11)) (9) If an applicant who has already received three sponsorships submits additional applications before June 1st, the department will return the applications. Starting on June 1st these additional applications will be accepted for consideration if the department still has waiver sponsorships available.

(10) If the Washington state ((medical)) license under chapter 18.71 or 18.57 RCW is pending at the time the application is submitted to the department, the department may:

(a) Sponsor or concur;

(b) Hold the application in order received; or

(c) Return the application as incomplete.

~~((12)) (11) The department will review complete applications against the criteria specified in this chapter.~~

~~((13)) (12) The department may:~~

~~(a) Request additional clarifying information;~~

~~(b) Verify information presented;~~

~~(c) Investigate financial status of the applicant;~~

~~((14)) (13) (d) ((Further investigate any comments generated by publicly funded provider notification of application for waiver;~~

~~(e)) Return the application as incomplete if the applicant does not supply requested clarifying information within thirty days of request. Incomplete applications must be resubmitted. Resubmitted applications will be considered new applications and will be reviewed in date order received.~~

~~((14)) (13) The department will notify the applicant in writing of action taken. If the decision is to decline sponsorship, the department will provide an explanation of how the application failed to meet the stated criterion or criteria.~~

~~((15)) (14) The department may deny a visa waiver request or, prior to U.S. Department of State approval, may withdraw a visa waiver recommendation for cause, ((which shall include the following:~~

~~(a) The application is not consistent with state and/or federal criteria;~~

~~(b) Fraud;~~

~~(c) Misrepresentation;~~

~~(d) False statements;~~

~~(e) Misleading statements; or~~

~~(f) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials.~~

((16)) when the department finds the applicant has engaged in conduct contrary to the intent of the J-1 visa waiver program identified in WAC 246-562-020 including, but not limited to, the following:

(a) Application is not consistent with state or federal criteria;

(b) Dishonesty;

(c) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials;

(d) Fraud;

(e) History of noncompliance for applicants who benefited from previous department sponsorship;

(f) Misrepresentation; or

(g) Violation of Washington state laws and rules related to charity care.

(15) Applications denied may be resubmitted with concerns addressed. Resubmitted applications will be considered new applications and will be reviewed in date order received.

**AMENDATORY SECTION** (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

**WAC 246-562-130 Eligibility for future participation in the visa waiver program.** (1) ~~((Health care facilities)) Applicants~~ may be denied future participation in the state visa waiver program if:

(a) The required ~~((six-month))~~ reports are not submitted in a complete and timely manner.

(b) A sponsored physician does not serve the designated ~~((shortage area and/or shortage))~~ HPSA or HPSA population at an approved practice location for the full three years of employment ~~((for primary care physicians or the full five years of employment for specialists))~~.

(c) A sponsored physician does not remain employed by the applicant for the full three years of employment ~~((for primary care physicians or the full five years of employment for specialists))~~.

(d) The applicant has a history of noncompliance with any of the provisions of this chapter or federal labor law requirements.

(2) A ~~((health care facility))~~ potential applicant may request a determination of eligibility prior to submitting an application. The department will review the situation upon receipt of a written request.

**AMENDATORY SECTION** (Amending WSR 03-19-054, filed 9/11/03, effective 10/12/03)

**WAC 246-562-140 Department's responsibility to report to the U.S. Department of State and the United States ~~((Bureau of))~~ Citizenship and Immigration Services.** (1) The department may report to the U.S. Department of State and the United States ~~((Bureau of))~~ Citizenship and Immigration Services if the applicant or physician is determined to be out of compliance with any of the provisions of this chapter.

(2) The department may report to the U.S. Department of State and the United States ~~((Bureau of))~~ Citizenship and Immigration Services if the physician is determined to have left employment in the federally designated area.

**AMENDATORY SECTION** (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

**WAC 246-562-150 Appeal process.** (1) The applicant or physician may appeal the following department decisions:

(a) To deny or withdraw a visa waiver sponsorship;

(b) To deny a request for approval of an employment contract amendment;

(c) Determination that the applicant or physician is out of compliance with this chapter; or

(d) Determination that the applicant is not eligible for future participation in the visa waiver program.

(2) The appeal process is governed by the Administrative Procedure Act (chapter 34.05 RCW), chapter 246-10 WAC, and this chapter.

(3) To initiate an appeal, the applicant must file a written request for an adjudicative proceeding within twenty-eight days of ~~((receipt))~~ the department's mailing of the department's decision on the application.

(4) The request shall be mailed, by a method showing proof of receipt, to the Adjudicative ~~((Clerk))~~ Clerk's Office, P.O. Box 47879, ~~((2413 Pacific Avenue,))~~ Olympia, WA 98504-7879.

(5) The request must contain:

(a) A specific statement of the issue or issues and law involved;

(b) The grounds for contesting the department's decision; and

(c) A copy of the department's decision.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-562-110 Waiver requests federal waiver programs.

#### **WSR 16-11-061**

#### **PROPOSED RULES**

#### **OFFICE OF**

#### **INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2016-04—Filed May 13, 2016, 2:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-082.

Title of Rule and Other Identifying Information: Title insurance agent affiliated business reports.

Hearing Location(s): Insurance Commissioner's Office (OIC), 302 Sid Snyder Avenue S.W., Suite 200, Conference Room, Olympia, WA 98504, on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: June 22, 2016.

Submit Written Comments to: Jim Tompkins, P.O. Box 40260, Olympia, WA 98504-0260, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by June 20, 2016.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by June 20, 2016, TTY (360) 586-0241, or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will consider the repeal of WAC 284-29-110.

Reasons Supporting Proposal: RCW 48.29.015 requires that all title insurance agents annually file a report of their affiliated business ownership with OIC. WAC 284-29-110 as adopted allows those title insurance agents who have not affiliated business ownership or who are wholly owned by a title insurer that is traded on a national stock exchange not to file a report. Therefore, WAC 284-29-110 is in conflict with the statute and is to be repealed by this rule.

Statutory Authority for Adoption: RCW 48.02.060 and 48.29.005.

Statute Being Implemented: RCW 48.29.015.

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

Name of Proponent: Mike Kreidler insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 98504-0260 [40260], Olympia, WA 98504-0260, (360) 725-7036; Implementation and Enforcement: John Hamje, P.O. Box 98504-0255 [40255], Olympia, WA 98504-0255, (360) 725-7262.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose any additional costs on a business. The rule repeals WAC 284-29-110 which was in conflict with RCW 48.29-015.

A cost-benefit analysis is not required under RCW 34.05.328. The rule repeals WAC 284-29-110 which was in conflict with RCW 48.29.015. This rule is exempt from a cost-benefit analysis per RCW 34.05.328 (5)(b)(v): "rules the content of which is explicitly and specifically dictated by statute."

May 13, 2016  
Mike Kreidler  
Insurance Commissioner

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-29-110 No report required.

**WSR 16-11-067**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**

[Filed May 16, 2016, 10:05 a.m.]

Supplemental Notice to WSR 15-19-151.

Preproposal statement of inquiry was filed as WSR 14-10-070.

Title of Rule and Other Identifying Information: Amending WAC 182-55-005 Authority and purpose, 182-55-010 Definitions, 182-55-015 Committee purpose, 182-55-020 Committee selection, 182-55-025 Committee member requirements and committee member terms, 182-55-030 Committee coverage determination process, 182-55-035 Committee coverage determination, 182-55-040 Health care authority's implementation of final coverage determinations,

182-55-045 Advisory group, 182-55-050 Health technology selection and 182-55-055 Health technology assessment; and new WAC 182-55-026 Committee governance and 182-55-041 Judicial review of final coverage determination.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106B, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2016.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by June 21, 2016, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Amber Loughheed by June 17, 2016, e-mail [amber.loughheed@hca.wa.gov](mailto:amber.loughheed@hca.wa.gov), (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA has not reviewed chapter 182-55 WAC since its adoption in 2006. HCA is conducting this rule-making action to provide clarification and modernization of the rules, add definitions, as well as the adopt [adoption of] rule(s) addressing administrative review processes of health technology assessment actions and decisions.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is necessary because of state court decision, King County Superior Court, No. 13-2-03122-1 SEA.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA, (360) 725-1408; Implementation and Enforcement: David Iseminger, P.O. Box 45504, Olympia, WA, (360) 725-9792.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

May 16, 2016  
Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-005 Authority and purpose.** Under RCW 70.14.080 through 70.14.140, the ~~((administrator))~~ director of the Washington state health care authority ~~((is required to establish and))~~ provides administrative support for, and ~~((is authorized to))~~ adopts rules to govern((-)) the health technology clinical committee and a health technology



assessment program ~~((that uses evidence to make coverage determinations for participating state agencies that purchased health care))~~ within the health care authority. The health technology assessment program will:

- ~~(1) ((Selects health technologies for assessment;~~
- ~~(2)) Contract(s) with an evidence-based technology assessment center to produce health technology assessments;~~
- ~~((3) Establishes an))~~ (2) Administratively support the independent health technology clinical committee; and
- ~~((4))~~ (3) Maintain(s) a centralized, internet-based communication tool.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-010 Definitions.** When used in this chapter:

(1) ~~((“Administrator” means the administrator of the Washington state health care authority under chapter 41.05 RCW, as set forth in RCW 70.14.080, as amended.~~

~~(2)) “Advisory group” as defined in RCW 70.14.080 means a group established under RCW 70.14.110 (2)(c).~~

~~(2) “Centralized, internet-based communication tool” means the health care authority’s health technology assessment program internet web pages established under RCW 70.14.130(1).~~

~~(3) “Committee” as defined in RCW 70.14.080 means the health technology clinical committee established under RCW 70.14.090.~~

~~(4) “Coverage determination” as defined in RCW 70.14.080 means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state purchased health care program((, as set forth in RCW 70.14.080, as amended)).~~

~~(5) “Decisions made under the federal medicare program” means national coverage determinations issued by the Centers for Medicare and Medicaid Services stating whether and to what extent medicare covers specific services, procedures, or technologies.~~

~~(6) “Director” means the director of the Washington state health care authority under chapter 41.05 RCW.~~

~~(7) “Health technology” as defined in RCW 70.14.080 means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies do not include prescription drugs governed by RCW 70.14.050.~~

~~((6))~~ (8) “Health technology assessment” means a report produced by a contracted, evidence-based, technology assessment center or other appropriate entity, as provided for in RCW 70.14.100(4), based on a systematic review of evidence of a technology’s safety, efficacy, and cost-effectiveness.

~~(9) “Participating agency” as defined in RCW 70.14.080 means the department of social and health services, the state health care authority, and the department of labor and industries((, as set forth in RCW 70.14.080, as amended.~~

~~(7) “Reimbursement determination” means a determination to provide or deny reimbursement for a health technology included as a covered benefit in a specific circumstance for an individual patient who is eligible to receive health care services from the state purchased health care program mak-~~

~~ing the determination, as set forth in RCW 70.14.080, as amended.~~

~~(8) “Health technology assessment” means a report produced by a contracted evidence-based technology assessment center as provided for in RCW 70.14.100(4) that is based on a systematic review of evidence of a technology’s safety, efficacy, and cost-effectiveness).~~

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-015 Committee purpose.** The purpose of the committee is to make coverage determinations for the participating agencies ~~((based on: A health technology assessment that reviews the scientific evidence of the relative safety, efficacy, and cost; information from any special advisory groups; and their professional knowledge and expertise))~~ as described under RCW 70.14.110.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-020 Committee selection.** (1) The ~~((administrator))~~ director, in consultation with the participating state agencies, ~~((shall make appointments to))~~ appoints vacant committee positions~~((, including the appointment of a chair,))~~ from a pool of interested applicants. Interested persons ~~((will be))~~ are provided an opportunity to submit applications to the ~~((administrator))~~ director for consideration.

(2) When appointing committee members, the ~~((administrator will))~~ director considers, in addition to the membership requirements imposed by RCW 70.14.090 ~~((and any)),~~ other relevant information, ~~((the following factors))~~ including:

(a) Practitioner specialty or type and use of health technologies, especially in relation to current committee member specialty or types;

(b) Practice location and community knowledge;

(c) Length of practice experience;

(d) Knowledge of and experience with evidence-based medicine, including formal additional training in fields relevant to evidence-based medicine;

(e) Medical quality assurance experience; and

(f) Health technology assessment review experience.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-025 Committee member requirements and committee member terms.** (1) As a continuing condition of appointment, committee members must:

(a) ~~((Shall))~~ Not have a substantial financial conflict of interest, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys;

(b) ~~((Must))~~ Complete a conflict of interest disclosure form, update the form annually, and keep disclosure statements current;

(c) ~~((Must))~~ Abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

(d) ~~((Shall not utilize))~~ Not use information gained ~~((as a result of))~~ from committee membership outside of committee responsibilities, unless ~~((such))~~ the information is publicly available.

~~(2) The ((administrator, in his/her))~~ director has the sole discretion ~~((, may disqualify))~~ to terminate a committee ~~((members))~~ member's appointment if ~~((he/she))~~ the director determines that the committee member has violated a condition of appointment.

~~((2) Committee members shall be appointed to a term of three years and shall serve until a successor is appointed. A member may be reappointed for additional three-year terms for a total of nine years. One year after the end of a nine-year term, a person is eligible for appointment to one additional three-year term.))~~ (3) Committee members serve staggered three-year terms. ~~((Of the initial members, in order))~~ To provide for staggered terms, ~~((some))~~ committee members may be appointed initially for less than three years. ~~((If an initial appointment is for less than twenty-four months, that period of time shall not be counted toward the limitation of years of appointment. Vacancies on the committee will be filled for the balance of the unexpired term.))~~

~~(3) The appointed committee chair shall select a vice-chair from among the committee membership; ratify committee bylaws approved by the administrator; and operate the committee according to the bylaws and committee member agreements.))~~

(4) A committee member may be appointed for a total of nine years of committee service, but an initial appointment of less than twenty-four months is not included in the nine-year limitation.

(5) A committee member may serve until that member's successor is appointed, notwithstanding the limits on service in subsection (3) of this section.

(6) Mid-term vacancies on the committee are filled for the remainder of the unexpired three-year term.

#### NEW SECTION

**WAC 182-55-026 Committee governance.** (1) The committee may establish bylaws, within applicable statutory and regulatory requirements, to govern the orderly resolution of the committee's purposes. Proposed bylaw amendments are published on the centralized, internet-based communication tool at least fourteen calendar days before adoption by the committee. Before adoption, the committee gives an opportunity at an open public meeting for public comment on proposed bylaw amendments. Committee bylaws shall be published on the centralized, internet-based communication tool.

(2) The director appoints a committee chair.

(3) The committee chair:

(a) Selects a vice-chair from among the committee membership;

(b) Presents bylaws, or amendments to the bylaws, to the committee for review and ratification; and

(c) Operates the committee according to the bylaws and committee member agreements.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-030 Committee coverage determination process.** (1) In making a coverage determination, committee members shall review and consider evidence regarding the safety, efficacy, and cost-effectiveness of the technology as set forth in the health technology assessment. The committee ~~((may))~~ also considers other information it deems relevant, including other information provided by the ~~((administrator))~~ director, reports ~~((and/or))~~ or testimony from an advisory group, and submissions or comments from the public.

(2) The committee shall give the greatest weight to the evidence determined, based on objective factors, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies. The committee ~~((may))~~ also considers additional evidentiary valuation factors such as recency ~~((date of information));~~ relevance ~~((the applicability of the information to the key questions presented or participating agency programs and clients));~~ and bias ~~((presence of conflict of interest or political considerations))~~, relevance, and bias.

(3) The committee also considers any unique impacts the health technology has on specific populations based on factors like sex, age, ethnicity, race, or disability, as identified in the health technology assessment.

(4) The committee provides an opportunity for public comment after the health technology assessment is published on the centralized, internet-based communication tool and before the committee's final coverage determination decision.

(5) After the committee makes a final coverage determination, the health technology assessment program publishes it on the centralized, internet-based communication tool and submits a notice in the *Washington State Register*.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-035 Committee coverage determination.** ~~((Based on the evidence regarding safety, efficacy, and cost-effectiveness of the health technology.))~~ The committee shall:

(1) Determine the conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies by deciding that:

(a) Coverage is allowed without special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective for all indicated conditions; or

(b) Coverage is allowed with special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective in only certain situations; or

(c) Coverage is not allowed because either the evidence is insufficient to conclude that the health technology is safe, efficacious, and cost-effective or the evidence is sufficient to

conclude that the health technology is unsafe, ~~((ineffectual))~~ inefficacious, or not cost-effective.

(2) Identify whether the coverage determination is consistent with ~~((the identified medicare))~~ decisions made under the federal medicare program and expert treatment guidelines.

(3) For decisions that are inconsistent with either ~~((the identified medicare))~~ decisions made under the federal medicare program or expert treatment guidelines, including those from specialty physician and patient advocacy organizations, specify the ~~((reason(s) for the decision and the evidentiary basis))~~ substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology that supports the contrary determination.

(4) For covered health technologies, specify criteria for participating agencies to use when deciding whether the health technology is medically necessary or proper and necessary treatment.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-040 ~~((Publication of committee))~~ Health care authority's implementation of final coverage determinations.** ~~((1) The administrator shall publish final committee determinations by posting on a centralized, internet-based communication tool within ten days.~~

(2) Upon publication, participating agencies will implement the committee determination according to their statutory, regulatory, or contractual process unless:

(a) The determination conflicts with an applicable federal statute or regulation, or applicable state statute; or

(b) Reimbursement is provided under an agency policy regarding experimental or investigational treatment, services under a clinical investigation approved by an institutional review board, or health technologies that have a humanitarian device exemption from the federal food and drug administration.) This section applies to all final coverage determinations made after August 1, 2016.

(1) The health care authority reviews the final coverage determination for conflicts identified in RCW 70.14.120 (1)(a) and (b).

(2) The health care authority reviews whether the health technology review process meets the requirements in this subsection before compliance by the health care authority's state-purchased health care programs. The review includes whether the:

(a) Notification of the health technology selected for review was made on the centralized, internet-based communication tool as required by RCW 70.14.130 (1)(a);

(b) Health technology assessment provided to the committee met the requirements in RCW 70.14.100(4) and WAC 182-55-055;

(c) Health technology assessment was published on the centralized, internet-based communication tool at least fourteen calendar days before the committee's consideration of the health technology assessment;

(d) Health technology assessment was considered by the committee in an open and transparent process, as required by RCW 70.14.110 (2)(a);

(e) Committee provided an opportunity for public comment prior to the committee's final coverage determination decision;

(f) Committee acknowledged public comment timely received after publication of the committee's draft coverage determination and before the committee's final coverage determination decision;

(g) Committee's final coverage determination specifies the reason or reasons for a decision that is inconsistent with the identified decisions made under the federal medicare program and expert treatment guidelines, including those from specialty physician and patient advocacy organizations, for the reviewed health technology; and

(h) Committee meetings complied with the requirements of the Open Public Meetings Act as required by RCW 70.14.090(3).

(3) After the health care authority completes its reviews under subsections (1) and (2) of this section, it establishes an implementation date for each of the health care authority's state-purchased health care programs and publishes the implementation dates on the health care authority's web site.

(4) The health care authority's implementation of a final coverage determination can be reviewed as other agency action under RCW 34.05.570(4). A petition for review must be filed in superior court and comply with all statutory requirements for judicial review of other agency action required in chapter 34.05 RCW.

#### NEW SECTION

**WAC 182-55-041 Judicial review of final coverage determination.** Nothing in this chapter limits the superior court's inherent authority to review health technology clinical committee determinations to the extent of assuring the decisions are not arbitrary, capricious, or contrary to law.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-045 Advisory group.** (1) The committee chair, upon an affirmative vote of the committee members, may establish ad hoc temporary advisory ~~((group(s) if specialized expertise or input from enrollees or clients is needed to review a particular health technology or group of health technologies. The purpose or scope of the advisory group and time period shall be stated. The advisory group shall provide a report and/or testimony to the committee on the key questions identified by the committee as requiring the input of the advisory group:~~

(2) ~~Advisory group membership:))~~ groups under RCW 70.14.110 (2)(c). At the time an ad hoc temporary advisory group is formed, the committee must state the ad hoc temporary advisory group's objective and questions to address. Notice of the formation of an ad hoc temporary advisory group, and information about how to participate, shall be posted on the centralized, internet-based communication tool.

(2) The committee chair, or designee, may appoint or remove an advisory group member. An ad hoc temporary advisory group ~~((shall))~~ must include at least three members. ~~((Membership should reflect the diverse perspectives and/or~~

technical expertise that drive the need for the specialized advisory group.) The advisory group will generally include at least one enrollee, client, or patient ~~(; and)~~. The advisory group must have:

(a) Two or more experts or specialists within the field relevant to the health technology, preferably with demonstrated experience in the use, evaluation, or research of the health technology ~~(-If substantial controversy over the health technology is present,);~~

(b) At least one expert ~~((that))~~ who is a proponent or advocate of the health technology; and

(c) At least one expert ~~((that))~~ who is an opponent or critic of the health technology ~~((should be appointed. A majority of each advisory group shall have no substantial financial interest in the health technology under review)).~~

(3) ~~((As a continuing condition of appointment, advisory group members:~~

~~(a) Must))~~ Each advisory group member must:

(a) Not have a substantial financial conflict of interest, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys;

(b) Complete an advisory group member agreement, including a conflict of interest disclosure form, and keep disclosure statements current;

~~((b) Must))~~ (c) Abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

~~((e) Shall))~~ (d) Not utilize information gained as a result of advisory group membership outside of advisory group responsibilities, unless such information is publicly available.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-050 Health technology selection.** (1) ~~((Prior to selection of a health technology for review or rereview, the administrator shall consider nominations from participating agencies and recommendations from the committee.))~~ The director, in consultation with participating agencies and the committee, selects health technologies to be reviewed or rereviewed by the committee.

(2) The ~~((administrator))~~ director or committee may also consider petitions requesting initial review of a health technology from interested parties. ~~((The administrator shall make available, including publication to the centralized internet-based communication tool required at RCW 70.14.130, a petition for interested parties to request a health technology be selected for a review or rereview. Interested parties shall complete the petition and submit it to the administrator. The administrator, or designee, will provide copies of the petition to participating agencies and the committee for comment, and provide the completed petition, with any comments, to the administrator for consideration.~~

(2) Interested parties that have submitted a petition for the review or rereview of a health technology that was not selected by the administrator may submit the petition to the committee for review or rereview.

(3) The committee may consider petitions submitted by interested parties for review or rereview of a health technology. The committee shall apply the priority criteria set forth in RCW 70.14.100.

(4) To suggest a topic for initial review, interested parties must use the petition form made available on the centralized, internet-based communication tool. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.

(a) Petitions are considered by the director, in consultation with participating agencies and the committee.

(b) Only after the director has declined to grant the petition can a petition be considered for selection by the committee, as described in RCW 70.14.100(3).

(c) If a health technology is selected by the committee ((shall be)), the health technology is referred to the ((administrator)) director for assignment to the next available contract for a health technology assessment review as described in RCW 70.14.100(4).

(3) Interested parties may submit a petition for the rereview of a health technology. Interested parties must use the petition form available on the centralized, internet-based communication tool and may submit to the health technology assessment program evidence that has since become available that could change the previous coverage determination. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.

(a) Petitions are considered by the director, in consultation with participating agencies and the committee.

(b) Only after the director has declined to grant the petition can a petition be reviewed by the committee, as described in RCW 70.14.100(3).

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

**WAC 182-55-055 Health technology assessment.** (1) Upon providing notice ~~((of the selection of the health technology for review, the administrator))~~ on the centralized, internet-based communication tool required by RCW 70.14.100 (1)(b) that the health technology has been selected for review, the director shall post an invitation for interested parties to submit information relevant to the health technology for consideration by the evidence-based technology assessment center. ~~((Such))~~ The information ((shall be required to)) must be submitted to the ((administrator,)) director or designee ((, no earlier than)) within thirty calendar days from the date of the notice.

(2) Upon notice of the ~~((selection of the))~~ health technology selected for review, the ~~((administrator))~~ director or designee shall request participating agencies to provide information relevant to the health technology, including data on safety, health outcome, and cost. ~~((Such))~~ The relevant information ((shall be required to)) must be submitted to the ((administrator,)) director or designee ((, no earlier than)) within thirty calendar days from the date of the notice.

(3) Upon notice of the ~~((selection of the))~~ health technology selected for review, the ~~((administrator))~~ director or designee shall ~~((require staff to))~~ identify ~~((and organize))~~ rele-

vant decisions made under the federal medicare ((national coverage determinations)) program and expert treatment guidelines, including those from specialty physician and patient advocacy organizations, and any referenced information used as the basis for such determinations ((and/or)) or guidelines.

(4) The ((administrator)) director shall provide all information ((relevant to the selected health technology)) gathered under subsections (1), (2), and (3) of this section to the evidence-based technology assessment center~~((;))~~ and shall post such information, along with the key questions for review, on ((a)) the centralized, internet-based communication tool.

(5) Upon completion of the health technology assessment by the evidence-based technology assessment center, the ((administrator)) director shall publish a copy of the health technology assessment on the centralized, internet-based communication tool and provide the committee with:

(a) ~~((Final))~~ A copy of the health technology assessment;

(b) ~~((Information as to whether the federal medicare program has made a national coverage determination;~~

~~((e)))~~ A copy of ((identified national coverage)) decisions made under the federal medicare program related to the health technology being reviewed and accompanying information describing the basis for the decision;

~~((c))~~ (c) Information as to whether expert treatment guidelines exist, including those from specialty physician organizations and patient advocacy organizations((; and

~~((e))~~ A copy of identified guidelines and accompanying information)), and describing the basis for the guidelines.

#### WSR 16-11-079

#### WITHDRAWAL OF PROPOSED RULES PROFESSIONAL EDUCATOR STANDARDS BOARD

(By the Code Reviser's Office)

[Filed May 17, 2016, 8:03 a.m.]

WAC 181-78A-264, proposed by the professional educator standards board in WSR 15-22-007, appearing in issue 15-22 of the Washington State Register, which was distributed on November 18, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### WSR 16-11-096

#### PROPOSED RULES UTILITIES AND TRANSPORTATION COMMISSION

[Filed May 18, 2016, 9:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-06-119.

Title of Rule and Other Identifying Information: The Washington utilities and transportation commission (commission) proposes this rule making to reinstate, revise, and repeal rules in chapter 480-120 WAC, Telephone companies.

The proposed rules would repeal rules related to the Washington telephone assistance plan [program] (WTAP), which no longer exists, and to the Washington Exchange Carriers [Carriers] Association (WECA), which has been discontinued. The proposed rules include reinstatement of WAC 480-120-440 Repair standards for service interruptions and impairments, excluding major outages.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on July 12, 2016, at 9:30 a.m.

Date of Intended Adoption: July 12, 2016.

Submit Written Comments to: Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by June 20, 2016. Please include "Docket UT-160196" in your comments.

Assistance for Persons with Disabilities: Contact Debbie Aguilar by June 28, 2016, TTY (360) 586-8203 or (360) 664-1132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission completed a rule making, Docket UT-140680, on March 26, 2015, to streamline the regulation of the telecommunications industry.

WAC 480-120-440 was repealed in Docket UT-140680. The proposed rules would reinstate WAC 480-120-440, repair standards for service interruptions. The reinstatement provides both the industry and consumers with a clear requirement for outage restoration, excluding major outages.

To reflect revisions and deletions to chapter 480-120 WAC made in UT-140680, current rules in chapter 480-120 WAC must be revised and repealed. The changes to remove and amend rules are as follows:

- WAC 480-120-021 Definitions, definition of "Order date" refers to WAC 480-120-112. This reference should be removed.
- WAC 480-120-061 (1)(d)(ii) Refusing service, refers to WAC 480-120-132, which is now WAC 480-120-104(5). This reference should be amended.
- WAC 480-120-103(2) Application for service, refers to WAC 480-120-105 and 480-120-112. Both references should be removed.

Cessation of WTAP makes the following changes necessary:

- WAC 480-120-021 Definitions, "Washington telephone assistance program" should be removed.
- WAC 480-120-174(2) Payment arrangements, this subsection describes the restoral of service to WTAP subscribers. This subsection should be removed.
- WAC 480-120-259 Washington telephone assistance plan, should be repealed in its entirety.

WECA has been discontinued. WAC 480-120-352 should be repealed in its entirety.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

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

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: John Cupp, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1113; Implementation and Enforcement: Steven V. King, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1115.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Companies have been required to adhere to the same requirements contained in former WAC 480-120-440. There should be no economic impact to comply with this rule if it is reinstated.

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

May 18, 2016  
Steven V. King  
Executive Director  
and Secretary

AMENDATORY SECTION (Amending WSR 15-08-043, filed 3/26/15, effective 4/26/15)

**WAC 480-120-021 Definitions.** The definitions in this section apply throughout the chapter except where there is an alternative definition in a specific section, or where the context clearly requires otherwise.

**"Access charge"** means a rate charged by a local exchange company to an interexchange company for the origination, transport, or termination of a call to or from a customer of the local exchange company. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

**"Access line"** means a circuit providing exchange service between a customer's standard network interface and a serving switching center.

**"Affiliate"** means an entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity.

**"Affiliated interest"** means a person or corporation as defined in RCW 80.16.010.

**"Ancillary services"** means all local service features excluding basic service.

**"Applicant"** means any person applying to a telecommunications company for new service or reconnection of discontinued service.

**"Average busy hour"** means a time-consistent hour of the day during which a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

**"Basic service"** means service that includes the following:

- Single-party service;
- Voice grade access to the public switched network;
- Support for local use;
- Dual tone multifrequency signaling (touch-tone);
- Access to emergency services (E911);
- Access to operator services;
- Access to interexchange services;
- Access to directory assistance; and
- Toll limitation services.

**"Business"** means a for profit or not-for-profit organization, including, but not limited to, corporations, partnerships, sole proprietorships, limited liability companies, government agencies, and other entities or associations.

**"Business days"** means days of the week excluding Saturdays, Sundays, and official state holidays.

**"Business office"** means an office or service center provided and maintained by a company.

**"Business service"** means service other than residential service.

**"Busy season"** means an annual, recurring, and reasonably predictable three-month period of the year when a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

**"Call aggregator"** means any corporation, company, partnership, or person, who, in the ordinary course of its operations, makes telephones available to the public or to users of its premises for telephone calls using a provider of operator services, including, but not limited to, hotels, motels, hospitals, campuses, and pay phones (see also pay phone service providers).

**"Category of service"** means local, data services such as digital subscriber line service, interexchange, or CMRS. Information about a customer's intraLATA and interLATA primary interexchange carrier freeze status is part of the local category.

**"Central office"** means a company facility that houses the switching and trunking equipment serving a defined area.

**"Centrex"** means a telecommunications service providing a customer with direct inward dialing to telephone extensions and direct outward dialing from them.

**"Class A company"** means a local exchange company with two percent or more of the access lines within the state of Washington. The method of determining whether a company is a Class A company is specified in WAC 480-120-034 (Classification of local exchange companies as Class A or Class B).

**"Class B company"** means a local exchange company with less than two percent of the access lines within the state of Washington. The method of determining whether a company is a Class B company is specified in WAC 480-120-034 (Classification of local exchange companies as Class A or Class B).

**"Commercial mobile radio service (CMRS)"** means any mobile (wireless) telecommunications service that is provided for profit that makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public.

**"Commission (agency)"** in a context meaning a state agency, means the Washington utilities and transportation commission.

**"Company"** means any telecommunications company as defined in RCW 80.04.010.

**"Competitively classified company"** means a company that is classified as competitive by the commission pursuant to RCW 80.36.320.

**"Control"** means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

**"Customer"** means a person to whom the company is currently providing service.

**"Customer premises equipment (CPE)"** is equipment located on the customer side of the SNI (other than a company) and used to originate, route, or terminate telecommunications.

**"Department"** means the department of social and health services.

**"Discontinue; discontinuation; discontinued"** means the termination or any restriction of service to a customer.

**"Drop facilities"** means company-supplied wire and equipment placed between a premises and the company distribution plant at the applicant's property line.

**"Due date"** means the date an action is required to be completed by rule or, when permitted, the date chosen by a company and provided to a customer as the date to complete an action.

**"Eligible telecommunications carrier (ETC)"** means a carrier designated as an ETC pursuant to 47 U.S.C. Sec. 214(e).

**"Emergency response facility"** means fire stations, hospitals, police stations, and state and municipal government emergency operations centers.

**"Exchange"** means a geographic area established by a company for telecommunications service within that area.

**"Extended area service (EAS)"** means telephone service extending beyond a customer's exchange, for which the customer may pay an additional flat-rate amount per month.

**"Facility or facilities"** means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by a telecommunications company to facilitate the provision of telecommunications service.

**"Force majeure"** means natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; embargoes; epidemics; terrorist acts; riots; insurrections; explosions; and nuclear accidents.

**"Interexchange"** means telephone calls, traffic, facilities or other items that originate in one exchange and terminate in another.

**"Interexchange company"** means a company, or division thereof, that provides long distance (toll) service.

**"Interoffice facilities"** means facilities connecting two or more telephone switching centers.

**"InterLATA"** is a term used to describe services, revenues, functions, etc., that relate to telecommunications originating in one LATA and terminating outside of the originating LATA.

**"IntraLATA"** is a term used to describe services, revenues, functions, etc., that relate to telecommunications that originate and terminate within the same LATA.

**"Local access and transport area (LATA)"** means a local access transport area as defined by the commission in conformance with applicable federal law.

**"Local calling area"** means one or more rate centers within which a customer can place calls without incurring long-distance (toll) charges.

**"Local exchange company (LEC)"** means a company providing local exchange telecommunications service.

**"Major outages"** means a service failure lasting for thirty or more minutes that causes the disruption of local exchange or toll services to more than one thousand customers; total loss of service to a public safety answering point or emergency response agency; intercompany trunks or toll trunks not meeting service requirements for four hours or more and affecting service; or an intermodal link blockage (no dial tone) in excess of five percent for more than one hour in any switch or remote switch.

**"Missed commitment"** means orders for exchange access lines for which the company does not provide service by the due date.

**"Order date"** means the date when an applicant requests service unless a company identifies specific actions a customer must first take in order to be in compliance with tariffs or commission rules. Except as provided in WAC 480-120-061 (Refusing service) and 480-120-104 (Information to consumers), when specific actions are required of the applicant, the order date becomes the date the actions are completed by the applicant if the company has not already installed or activated service.

~~((When an applicant requests service that requires customer-ordered special equipment, for purposes of calculating compliance with the one hundred eighty-day requirement of WAC 480-120-112 (Company performance for orders for nonbasic service) the order date is the application date unless the applicant fails to provide the support structure or perform other requirements of the tariff. In the event the applicant fails to provide the support structure or perform the other requirements of the tariff a new order date is established as the date when the applicant does provide the support structure or perform the other requirements of the tariff.))~~

**"Pay phone" or "pay telephone"** means any telephone made available to the public on a fee-per-call basis independent of any other commercial transaction. A pay phone or pay telephone includes telephones that are coin-operated or are activated by calling collect or using a calling card.

**"Pay phone services"** means provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls.

**"Pay phone service provider (PSP)"** means any corporation, company, partnership, or person who owns or operates and makes pay phones available to the public.

**"Payment agency"** means a physical location established by a local exchange company, either on its own premises or through a subcontractor, for the purpose of receiving cash and urgent payments from customers.

**"Person"** means an individual, or an organization such as a firm, partnership, corporation, municipal corporation, agency, association or other entity.

**"Prior obligation"** means an amount owed to a local exchange company or an interexchange company for regulated services at the time the company physically toll-restricts, interrupts, or discontinues service for nonpayment.

**"Proprietary"** means owned by a particular person.

**"Provision"** means supplying telecommunications service to a customer.

**"Public access line (PAL)"** means an access line equipped with features to detect coins, permit the use of calling cards, and such other features as may be used to provision a pay phone.

**"Public safety answering point (PSAP)"** means an answering location for enhanced 911 (E911) calls originating in a given area. PSAPs are designated as primary or secondary. Primary PSAPs receive E911 calls directly from the public; secondary PSAPs receive E911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

**"Radio communications service company"** has the meaning found in RCW 80.04.010, except that for the purposes of this section it includes only those companies providing two-way voice communication as a common carrier.

**"Residential service"** means basic service to a household.

**"Restricted basic service"** means either the ability to receive incoming calls, make outgoing calls, or both through voice grade access to the public switched network, including E911 access, but not including other services that are a part of basic service.

**"Results of operations"** means a fiscal year financial statement concerning regulated operations that include revenues, expenses, taxes, net operating income, and rate base. The rate of return is also included as part of the results of operations. The rate of return is the percentage of net operating income to the rate base.

**"Service interruption"** means a loss of or impairment of service that is not due to, and is not, a major outage.

**"Service provider"** means any business that offers a product or service to a customer, the charge for which appears on the customer's telephone bill.

**"Special circuit"** means an access line specially conditioned to give it characteristics suitable for handling special or unique services.

**"Standard network interface (SNI)"** means the protector that generally marks the point of interconnection between company communications facilities and customer's terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface or demarcation point is located on the customer's side of the company's protector, or the equivalent thereof in cases where a protector is not employed.

**"Station"** means a telephone instrument installed for a customer to use for toll and exchange service.

**"Subscriber list information (SLI)"** means any information:

(a) Identifying the listed names of subscribers of a company and those subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned when service is established), or any combination of listed names, numbers, addresses, or classifications; and

(b) That the company or an affiliate has published, caused to be published, or accepted for publication in any directory format.

**"Subsidiary"** means any company in which the telecommunications company owns directly or indirectly five percent or more of the voting securities, unless the telecommunications company demonstrates it does not have control.

**"Support structure"** means the trench, pole, or conduit used to provide a path for placement of drop facilities.

**"Telecommunications service"** means the offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used.

**"Telemarketing"** means contacting a person by telephone in an attempt to sell one or more products or services.

**"Toll restriction"** or **"toll restricted"** means a service that prevents the use of a local access line to initiate a long distance call using a presubscribed interexchange company.

**"Traffic"** means telecommunications activity on a telecommunications network, normally used in connection with measurements of capacity of various parts of the network.

**"Trouble report"** means a report of service affecting network problems reported by customers, and does not include problems on the customer's side of the SNI.

**"Trunk"** means, in a telecommunications network, a path connecting two switching systems used to establish end-to-end connection. In some circumstances, both of its terminations may be in the same switching system.

~~("Washington telephone assistance program" means the program of local exchange service discounts administered by the department.)~~

**AMENDATORY SECTION** (Amending WSR 07-08-027, filed 3/27/07, effective 4/27/07)

**WAC 480-120-061 Refusing service.** (1) A company may refuse to connect with, or provide service to, an applicant under the following conditions:

(a) When service will adversely affect the service to existing customers.

(b) When the installation is considered hazardous.

(c) When the applicant has not complied with commission rules, company tariff, or rates, terms and conditions pursuant to competitive classification, and state, county, or municipal codes concerning the provision of telecommunications service such as building and electrical codes.

(d) When the company is unable to substantiate the identity of the individual requesting service.

(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identifi-



cation. The list must include a current driver's license or other picture identification.

(ii) Company business offices and payment agencies, required under WAC ~~((480-120-132))~~ 480-120-104(5) and 480-120-162, must provide a means for applicants to provide identification at no charge to the applicant.

(e) When the applicant has previously received service from the company by providing false information, including false statements of credit references or employment, false statement of premises address, or use of an alias or false name with intent to deceive, until the applicant corrects the false information to the satisfaction of the company.

(f) When the applicant owes an overdue, unpaid prior obligation to the company for the same class of service, until the obligation is paid or satisfactory arrangements are made.

(g) When the applicant requests service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address and the company determines, based on objective evidence, that the applicant has cooperated with the prior customer with the intent to avoid payment. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has permanently vacated the address.

(h) When all necessary rights of way, easements, and permits have not been secured. The company is responsible for securing all necessary public rights of way, easements, and permits, including rights of way on every highway as defined in RCW 36.75.010(11) or created under RCW 36.75.070 or 36.75.080. The applicant is responsible for securing all necessary rights of way or easements on private property, including private roads or driveways as defined in RCW 36.75.010(10). A private road or driveway is one that has been ascertained by the company not to be public.

(2) A company may not withhold or refuse to release a telephone number to a customer who is transferring service to another telecommunications company within the same rate center where local number portability has been implemented.

(3) A telecommunications company must deny service to a nonregistered telecommunications company that intends to use the service requested to provide telecommunications for hire, sale, or resale to the general public within the state of Washington. Any telecommunications company requesting service from another telecommunications company must state in writing whether the service is intended to be used for intrastate telecommunications for hire, sale, or resale to the general public. If the service is intended for hire, sale, or resale on an intrastate basis, the company must certify in writing, in the same manner as required by RCW 9A.72.085, that it is properly registered with the commission to provide the service.

AMENDATORY SECTION (Amending WSR 08-19-001, filed 9/3/08, effective 10/4/08)

**WAC 480-120-103 Application for service.** (1) When contacted by an applicant, or when a company contacts a person, a company must:

(a) Accept and process applications when an applicant for service for a particular location has met all tariff requirements and applicable commission rules;

(b) Establish the due date as the date requested by the applicant but is not required to establish a due date that is fewer than seven business days after the order date. If the company establishes a due date other than the date requested by the applicant, it must inform the applicant of the specific date when service will be provided or state that an estimated due date will be provided within seven business days as required by subsection (2) of this section; and

(c) Maintain a record in writing, or in electronic format, of each application for service, including requests for a change of service.

(2) If the company does not provide the applicant with a due date for installation or activation at the time of application as required in subsection (1)(b) of this section, the company must state the reason for the delay. Within seven business days of the date of the application, the company must provide the applicant with an estimated due date for installation or activation. ~~((The standards imposed by WAC 480-120-105 (Company performance standards for installation or activation of access lines) and 480-120-112 (Company performance for orders for nonbasic services) are not altered by this subsection.))~~

(3) When the company informs the customer that installation of new service orders requires on-premises access by the company, the company must offer the customer an opportunity for an installation appointment that falls within a four-hour period.

(4) When the application for service requires an extension of service as defined in WAC 480-120-071 (Extension of service), the requirement of subsection (1)(b) of this section does not apply.

AMENDATORY SECTION (Amending WSR 05-03-031, filed 1/10/05, effective 2/10/05)

**WAC 480-120-174 Payment arrangements.** (1) **General.** Applicants or customers, excluding telecommunications companies as defined in RCW 80.04.010, are entitled to, and a company must allow, an initial use, and then, once every five years dating from the customer's most recent use of the option, an option to pay a prior obligation over not less than a six-month period. The company must restore service upon payment of the first installment if an applicant is entitled to the payment arrangement provided for in this section and, if applicable, the first installment of a deposit is paid as provided for in WAC 480-120-122 (Establishing credit—Residential services).

(2) ~~((Restoring service based on Washington telephone assistance program (WTAP) or federal enhanced tribal lifeline program eligibility. Local exchange companies (LECs) must restore service for any customer who has had basic service discontinued for nonpayment under WAC 480-120-172 (Discontinuing service—Company initiated) if the customer was not a participant in either the Washington telephone assistance program (WTAP) or the federal enhanced tribal lifeline program at the time service was discontinued and if the customer is eligible to participate in~~

~~WTAP or the federal enhanced tribal lifeline program at the time the restoration of service is requested. To have service restored under this subsection, a customer must establish eligibility for either WTAP or the federal enhanced tribal lifeline program, agree to continuing participation in WTAP or the federal enhanced tribal lifeline program, agree to pay unpaid basic service and ancillary service amounts due to the LEC at the monthly rate of no more than one and one-half times the telephone assistance rate required to be paid by WTAP participants as ordered by the commission under WAC 480-122-020 (Washington telephone assistance program rate), agree to toll restriction, or ancillary service restriction, or both, if the company requires it, until the unpaid amounts are paid. Companies must not charge for toll restriction when restoring service under this section.~~

~~In the event a customer receiving service under this subsection fails to make a timely payment for either monthly basic service or for unpaid basic service or ancillary service, the company may discontinue service pursuant to WAC 480-120-172.~~

(3)) Nothing in this rule precludes the company from entering into separate payment arrangements with any customer for unpaid toll charges or over a longer period than described in this rule as long as both the company and the customer agree to the payment arrangement. Longer payment arrangements as described in this subsection satisfy the requirements in subsection (1) or (2) of this section.

#### NEW SECTION

##### **WAC 480-120-441 Repair standards for service interruptions and impairments, excluding major outages.**

(1) A company must repair all out-of-service interruptions within forty-eight hours, unless the company is unable to make the repair because it is physically obstructed from doing so or because of force majeure, in which case the repair must be made as soon as practicable. The forty-eight hour requirement does not apply to out-of-service interruptions that are part of a major outage under WAC 480-120-412.

For purposes of this section an out-of-service interruption is defined as a condition that prevents the use of the telephone exchange line for purposes of originating or receiving a call and does not include trouble reported for nonregulated services such as voice messaging, inside wiring, or customer premises equipment.

(2) A company must repair all other regulated service interruptions within seventy-two hours, unless the company is unable to make the repair because it is physically obstructed from doing so or because of force majeure, in which case the repair must be made as soon as practicable. The seventy-two hour requirement does not apply to out-of-service interruptions that are part of a major outage under WAC 480-120-412.

(3) The forty-eight-hour and seventy-two-hour standards do not apply during company work stoppages directly affecting provision of service in the state of Washington.

(4) When the company informs the customer that repair requires on-premises access by the company with the customer present, the company must offer the customer an

opportunity for an installation appointment that falls within a four-hour period.

(5) A company is considered to have met its obligations under this rule if it conducts tests during the prescribed period that indicates that the customer's service is operating within industry standards. The company must make all test information available to the commission upon request.

(6) A company is considered to have met its obligations under this rule if it conducts tests during the prescribed period which demonstrate that the reported problem may only be cleared from within the customer's premises and the company is either unable to reach the customer to arrange access or is refused access by the customer. The company must make all test information and customer contact logs available to the commission upon request.

(7) For the purposes of this section, Sundays and legal holidays are not considered working days and are therefore excluded from the forty-eight-hour and seventy-two-hour periods.

(8) In instances when repair requires construction work, the forty-eight-hour and seventy-two-hour periods begin when a company has received appropriate authorization from the applicable governing body associated with the repair (e.g., utility location services are completed and, if applicable, a permit is granted). A company must contact the appropriate authorities to request applicable utility location services and permits when the company determines that a repair situation requires construction work to correct. Upon receiving any repair report that requires construction work, a company must contact the appropriate authorities as soon as practicable to request utility location services and permits, if applicable.

(9) When a company plans a service interruption, it must make reasonable efforts to notify customers that it determines service will be affected not less than seven days in advance or, if seven days' notice is not possible, as soon as the interrupted service is planned. A notice is not required for planned service interruptions that have a duration of less than five minutes and occur between the hours of 12:00 a.m. and 5:00 a.m.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-120-259 Washington telephone assistance program.

WAC 480-120-352 Washington Exchange Carrier Association (WECA).

**WSR 16-11-097**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed May 18, 2016, 9:27 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: Chapter 16-524 WAC, Tulip, iris and narcissus bulbs.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on June 23, 2016, at 10:00 a.m.

Date of Intended Adoption: August 9, 2016.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail [tnorman@agr.wa.gov](mailto:tnorman@agr.wa.gov), fax (360) 902-2092, by 5:00 p.m., June 23, 2016.

Assistance for Persons with Disabilities: Contact Teresa Norman by June 9, 2016, (360) 902-2043, TTY 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will repeal chapter 16-524 WAC and terminate the Washington bulb commission. A hearing will be held under the provisions of chapter 34.05 RCW and a referendum of affected producers will be conducted under the provisions of chapter 15.66 RCW to determine whether the marketing order and commission are terminated.

Reasons Supporting Proposal: There are fewer than five affected producers of tulip, iris and narcissus bulbs in Washington state. Chapter 16-524 WAC is applicable only to bulb production; most current tulip, iris, and narcissus growers produce cut flowers, which are not covered under chapter 16-524 WAC. The Washington bulb commission no longer meets the requirements of chapter 15.66 RCW, Washington state agricultural commodity commissions, particularly RCW 15.66.110(1), which requires the commission to be composed of not less than five members.

Statutory Authority for Adoption: RCW 15.66.040 and 15.66.055; chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.66 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Any rule proposal will not be adopted unless the proposed rules are also approved in a referendum of affected bulb producers pursuant to chapter 15.66 RCW.

Name of Proponent: Washington state bulb commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Teresa Norman, Olympia, Washington, (360) 902-2043.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal would eliminate the marketing order for the Washington bulb commission. Under the provisions of chapter 15.66 RCW a referendum of affected parties is required to terminate the commission. There are no negative fiscal impacts to affected producers of tulip, iris and narcissus bulbs. In addition, rule-making proceedings conducted under chapter 15.66 RCW are exempt from compliance with RCW 34.05.310, chapter 19.85 RCW, the Regulatory Fairness Act, and RCW 43.135.-055 when the adoption of the rules is determined by a referendum vote of the affected parties.

A cost-benefit analysis is not required under RCW 34.05.328. The department of agriculture and the Washing-

ton bulb commission are not named agencies under RCW 34.05.328 (5)(a)(i).

May 18, 2016

Derek I. Sandison

Director

### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-524-002 Director's findings and decision approving a marketing order.
- WAC 16-524-003 Director's order making marketing order effective.
- WAC 16-524-010 Definitions.
- WAC 16-524-020 Bulb commission.
- WAC 16-524-030 Marketing order purposes.
- WAC 16-524-040 Assessments and assessment funds.
- WAC 16-524-050 Information reports.
- WAC 16-524-060 Separability.
- WAC 16-524-070 Effective time.
- WAC 16-524-110 Producer's annual sales report—Form.

### **WSR 16-11-099**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Filed May 18, 2016, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-02-119.

Title of Rule and Other Identifying Information: Changes to Washington department of fish and wildlife's (WDFW) recreational salmon fishing rules resulting from stakeholder recommendations made during North of Falcon meetings: WAC 220-310-200 Freshwater exceptions to statewide rules—Columbia, 220-55-230 Columbia River Endorsement, 220-55-220 Two-pole endorsement, 232-28-620 Coastal salmon—Saltwater seasons and daily limits, 220-310-185 Freshwater exceptions to statewide rules—Southwest, 220-310-195 Freshwater exceptions to statewide rules—Eastside, and 220-310-190 Freshwater exceptions to statewide rules—Puget Sound.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98501, on Friday, June 24, 2016, at 8 a.m. - 12 p.m. (noon).

Date of Intended Adoption: On or after June 27, 2016.

Submit Written Comments to: Scott Bird, WDFW Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail [Rules.Coordinator@dfw.wa.gov](mailto:Rules.Coordinator@dfw.wa.gov), fax (360) 902-2155, by June 24, 2016.

Assistance for Persons with Disabilities: Contact Dolores Noyes by June 22, 2016, TTY (360) 902-2207 or (360) 902-2349.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Recreational salmon fishing rules based on North of Falcon recommendations change from year to year to reflect resource availability and to achieve conservation goals. Amendments to recreational salmon fishing rules are needed to implement the agreed-upon changes.

Reasons Supporting Proposal: To protect fish species listed as endangered while supporting recreational fishing opportunity and to make changes to salmon seasons and harvest amounts pursuant to agreements and recommendations made at the North of Falcon meetings.

Statutory Authority for Adoption: RCW 77.32.470, 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.32.470, 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Tribble, 1111 Washington Street, Olympia, WA 98501, (360) 902-2329; Implementation: Ron Warren, 1111 Washington Street, Olympia, WA 98501, (360) 902-2799; and Enforcement: Steve Crown, 1111 Washington Street, Olympia, WA 98501, (360) 902-2936.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule amendments do not affect small business; i.e., there is no direct regulation of small business. The rules apply to recreational fishers.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals only impact recreational salmon fisheries and do not affect hydraulics.

May 17, 2016  
Scott Bird  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 16-06-073, filed 2/26/16, effective 7/1/16)

**WAC 220-55-220 Two-pole endorsement.** Anglers who possess a valid two-pole endorsement may fish with two lines in all lakes and ponds open to fishing, with the following exceptions:

Water Body	County
Para-juvenile Lake	Adams
Headgate Pond	Asotin
Columbia Park Pond	Benton
Blackbird Island Pond	Chelan
Aldwell Lake	Clallam
Beaver Lake	Clallam
Carrie Blake Pond	Clallam
Dickey Lake	Clallam
Lake Pleasant	Clallam

Water Body	County	
Lincoln Pond	Clallam	
Sutherland Lake	Clallam	
Vancouver Lake	Clark	Includes all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River.
Big Four Lake	Columbia	
Dayton Pond	Columbia	
Blue Lake	Cowlitz	
Castle Lake	Cowlitz	
Coldwater Lake	Cowlitz	
Lewis River Power Canal	Cowlitz	Includes old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse.
Merrill Lake	Cowlitz	
Silver Lake	Cowlitz	
Pit Lake	Douglas	
Ping Pond	Grant	
Mill Creek Pond	Grays Harbor	
Quigg Lake	Grays Harbor	Located at Friends Landing near Montesano.
Vance Creek Pond #1	Grays Harbor	
Gibbs Lake	Jefferson	
Horseshoe Lake	Jefferson	
Teal Lake	Jefferson	
Lake Sammamish	King	
Lake Union	King	
Lake Washington	King	Including that portion of Sammamish River from 68th Ave. NE bridge downstream.
Lake Washington Ship Canal	King	(Including Lake Union, Portage Bay, and Salmon Bay) Waters east of a north-south line 400' west of the Chittenden Locks to the Montlake Bridge.
Mill Pond	King	Auburn.
Old Fishing Hole Pond	King	Kent.
Portage Bay	King	
Salmon Bay	King	
Swans Mill Pond	King	
Koeneman Lake	Kitsap	Formerly Fern Lake.
Kachess Lake	Kittitas	
Keechelus Lake	Kittitas	
Kiwanis Pond	Kittitas	
Naneum Pond	Kittitas	
Cowlitz Falls Reservoir	Lewis	
Mayfield Lake	Lewis	Mayfield Dam to Mossyrock Dam.
Packwood Lake	Lewis	
Scanewa Lake	Lewis	Cowlitz Falls Reservoir.
Walupt Lake	Lewis	

Water Body	County	River	County	Section
Willame Lake	Lewis			
Cady Lake	Mason	Chehalis	Grays Harbor	From Highway 101 Bridge in Aberdeen to South Elma Bridge (Wakefield Road): <del>((July))</del> August 1 through November 30.
Cushman Reservoir	Mason			
Prices Lake	Mason			
Stump Lake	Mason			
Silvernail Lake	Okanogan	Columbia		Camas Slough: August 1 through December 31.
Cases Pond	Pacific			
South Bend Mill Pond	Pacific			From Highway 395 Bridge at Pasco to Old Hanford townsite wooden power-line towers: Year-round, except for sturgeon.
Bradley Lake	Pierce			
De Coursey Pond	Pierce			
Ohop Lake	Pierce			From wooden powerline towers to Vernita Bridge: February 1 through October 22, except for sturgeon.
Tanwax Lake	Pierce			
Wapato Lake	Pierce			
Granite Lakes	Skagit		Near Marblemount.	
Northern State Hospital Pond	Skagit			From Vernita Bridge to Priest Rapids Dam: Year-round, except for sturgeon.
Vogler Lake	Skagit			
Drano Lake	Skamania		January 1 through April 30 and July 1 through September 30.	From Priest Rapids Dam to Wanapum Dam: July 1 through August 31.
Swift Reservoir	Skamania		From dam to Eagle Cliff Bridge.	From Wanapum Dam to Wells Dam: July 1 through August 31.
Fortson Mill Pond #2	Snohomish			
Jennings Park Pond	Snohomish			From Wells Dam to Highway 173 Bridge at Brewster: July 16 through August 31.
Monte Cristo Lake	Snohomish			
North Gissburg Pond	Snohomish			
Spada Lake	Snohomish			From Highway 173 Bridge at Brewster to Chief Joseph Dam: July 1 through August 31.
Bear Lake	Spokane			
North Silver Lake	Spokane			
Lucky Duck Pond	Stevens	Cowlitz	Lewis	Lexington Bridge Drive in Kelso upstream to the barrier dam.
Long's Pond	Thurston			
Munn Lake	Thurston			
Jefferson Park Pond	Walla Walla	Lewis	Clark	From railroad bridge near Kuhn's Road to mouth of East Fork Lewis.
Lions Park Pond	Walla Walla		College Place.	
Diablo Lake	Whatcom	North Fork Lewis	Clark/Cowlitz	Mouth to Johnson Creek.
Gorge Lake	Whatcom			
Lake Whatcom	Whatcom	Naselle	Pacific/Wahkiakum	From Highway 101 Bridge to Highway 401: August 1 through January 31.
Ross Lake	Whatcom			
Squalicum Lake	Whatcom	Okanogan	Okanogan	<u>From the mouth to Highway 97 Bridge immediately upstream of the mouth:</u> July 1 through <del>((October 15))</del> August 31.
Garfield Juvenile Pond	Whitman			
Clear Lake	Yakima			
Leech Lake	Yakima		White Pass area.	
Mud Lake	Yakima			
Myron Lake	Yakima	Pend Oreille	Pend Oreille	
Sarge Hubbard Park Pond	Yakima	Palouse	Whitman	Mouth to base of Palouse Falls: June 16 through August 31.
Yakima Sportsmen's Park Ponds	Yakima	Spokane	Spokane and Stevens	Lower Spokane River from mouth (SR 25 bridge) to 400' below Little Falls Dam.

Anglers who possess a valid two-pole endorsement may fish with two lines in the following river sections:

River	County	Section
Willapa	Pacific	From the city of South Bend boat launch to the 2nd bridge on Camp One Road: August 1 through January 31.
Wind	Skamania	Salmon and steelhead: Mouth (boundary line/markers) to the Highway 14 Bridge: May 1 through June 30.
Yakima	Yakima	From Highway 240 Bridge to 400' below Prosser Dam: March 1 through August 31.

Anglers who possess a valid two-pole endorsement may fish for salmon with two lines in the following marine areas:

Description	Marine Area
Willapa	2-1. ((East of a line from Cape Shoalwater to Leadbetter Point.)) <u>When permissible in WAC 232-28-620.</u>
Port Susan and Port Gardner	Tulalip Terminal Area: May 1 through September 30.
Seattle/Bremerton Area	Sinclair Inlet: July 1 through September 30.
South Puget Sound	13.

**AMENDATORY SECTION** (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

**WAC 220-55-230 Columbia River endorsement.**

Anglers 15 years of age and older must purchase and have a valid Columbia River endorsement in their possession to fish for salmon or steelhead in the following waters:

- (1) In the mainstem Columbia River from the Rocky Point/Tongue Point line to Chief Joseph Dam
- (2) Deep River (Wahkiakum County)
- (3) Grays River (Wahkiakum County) from the mouth to the mouth of the South Fork
  - (a) Grays River, West Fork
  - (b) Grays River, South Fork
  - (c) Grays River, East Fork
  - (4) Skamokawa River (Wahkiakum County)
  - (5) Elochoman River (Wahkiakum County)
  - (6) Mill Creek (Cowlitz County)
  - (7) Abernathy Creek (Cowlitz County), including all tributaries
  - (8) Germany Creek (Cowlitz County), including all tributaries
  - (9) Coal Creek (Cowlitz County) from the mouth to 400 feet below the falls
  - (10) Cowlitz River (Cowlitz County) from the mouth to the mouth of Ohanapecosh and Muddy forks
    - (a) Olequa Creek
    - (b) Lacamas Creek (Lewis County)
    - (c) Blue Creek
    - (d) Mill Creek (Lewis County)
    - (e) Mayfield Lake
    - (f) Tilton River from the mouth to West Fork

- (g) Tilton River, East Fork
- (h) Tilton River, North Fork
- (i) Tilton River, South Fork
- (j) Tilton River, West Fork
- (k) Lake Scanewa (Cowlitz Falls Reservoir)
- (l) Cispus River (Lewis County) mouth to North Fork
- (m) Cowlitz River, Clear Fork and Muddy Fork
- (11) Coweeman River (Cowlitz County)
- (12) Toutle River (Cowlitz County) from the mouth to forks
  - (a) Toutle River, North Fork
  - (b) Toutle River, South Fork
  - (c) Green River (Cowlitz County) from the mouth to Miner's Creek
  - (13) Kalama River (Cowlitz County) from the mouth to Kalama Falls; Gobar Creek
  - (14) Lewis River (Clark/Cowlitz counties) from the mouth to Merwin Dam
    - (a) Lewis River, East Fork
    - (b) Cedar Creek (Clark County)
    - (15) Salmon Creek (Clark County) from the mouth to 182nd Ave. Bridge
    - (16) Camas Slough (Clark County) (waters outside the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island)
    - (17) Washougal River (Clark County)
      - (a) Little Washougal
      - (b) Washougal River West, North Fork
      - (18) Hamilton Creek (Skamania County)
      - (19) Rock Creek (Skamania County) from the mouth to the falls at approximately river mile 1
      - (20) Wind River (Skamania County)
      - (21) Drano Lake (Skamania County) (Little White Salmon River downstream of the markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of Highway 14 Bridge)
      - (22) White Salmon River (Klickitat/Skamania counties) from the mouth to Big Brother Falls at river mile 16
      - (23) Klickitat River (Klickitat County)
      - (24) Walla Walla River (Walla Walla County) and tributaries
        - (25) Mill Creek (Walla Walla County)
        - (26) Touchet River (Columbia/Walla Walla counties) from the mouth to the confluence of North Fork and South Fork
          - (a) Touchet River, North Fork
          - (b) Touchet River, South Fork
          - (c) Touchet River, Wolf Fork
          - (27) Grande Ronde River (Asotin County)
          - (28) Snake River mainstem; Palouse River (Whitman County) (below the falls)
          - (29) Tucannon River (Columbia/Garfield counties)
          - (30) Yakima River (Benton/Yakima/Kittitas counties)
            - (a) From the mouth to ~~((400 feet below Prosser Dam))~~ the Mabton-Sunnyside Rd. (SR 241) Bridge
            - (b) ~~((From Highway 223 Bridge at Zillah to Sunnyside (Parker) Dam~~
            - (e)) From the Interstate 82 Bridge at Union Gap to Roza Dam

(31) Wenatchee River from the mouth to (~~Lake Wenatchee~~) Tumwater Dam

(32) Chelan River (Chelan County) from the mouth (rail-road bridge) to Chelan PUD safety barrier below the powerhouse

(33) Icicle River (Chelan County) from the mouth to (~~Leland Creek~~) Icicle Irrigation Peshastin District foot-bridge

(34) Lake Wenatchee (Chelan County)

(35) Entiat River (Chelan County) from the mouth to Entiat Falls

(36) Methow River (Okanogan County) from the mouth to Foghorn Dam

(37) Okanogan River (Okanogan County)

(38) Lake Osoyoos (Okanogan County)

(39) Similkameen River (Okanogan County) mouth to Enloe Dam

AMENDATORY SECTION (Amending WSR 16-06-073, filed 2/26/16, effective 7/1/16)

**WAC 220-310-185 Freshwater exceptions to state-wide rules—Southwest. (1) Abernathy Creek and all tributaries including Cameron, Slide, and Wiest creeks (Cowlitz County):**

(a) From the mouth to a point 500 feet downstream from the Abernathy Technology Center:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Bass: No limit and no size restriction.

(iii) Channel catfish: No limit.

(iv) Walleye: No limit and no size restriction.

(v) Open the first Saturday in June through August 31 and November 1 through March 15.

(vi) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(A) First Saturday in June through August 31:

(I) No minimum size for trout.

(II) Release all fish except adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(III) Three hatchery trout limit.

(B) November 1 through March 15: Catch and release except up to 3 hatchery steelhead may be retained.

(C) Salmon:

(I) Open November 1 through December 31.

(II) Limit 6; up to 2 may be adults.

(III) Only hatchery Chinook and hatchery coho may be retained.

(b) From 200 feet above Abernathy Falls to posted markers 500 feet downstream from the Abernathy Fish Technology Center: Closed.

(c) From 200 feet above Abernathy Falls upstream to source and all tributaries including Erick and (~~Ordways~~) Ordway creeks:

(i) Open the first Saturday in June through August 31.

(ii) Release all fish except adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(iii) Trout: No minimum size.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead. Three hatchery trout limit.

(v) Selective gear rules apply.

**(2) Battle Ground Lake (Clark County):**

(a) Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: It is unlawful to retain more than 2 fish twenty inches or greater in length.

**(3) Blue Creek (Lewis County), from the mouth to Spencer Road:**

(a) Closed from posted sign above rearing pond outlet to Spencer Road.

(b) Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(c) Night closure in effect.

(d) Open June 1 through April 14 for trout only:

(i) Limit 5; minimum length 12 inches; it is unlawful to retain more than 3 hatchery steelhead.

(ii) Release wild cutthroat.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((iv))~~ (e) Barbless hooks are required for salmon and steelhead.

(f) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(4) Blue Lake (Cowlitz County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

(5) **Blue Lake Creek (Lewis County):** Selective gear rules apply.

**(6) Butter Creek (Lewis County):**

(a) Selective gear rules apply.

(b) Trout: Minimum length 10 inches.

**(7) Canyon Creek (Clark County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Trout: Limit 5.

(8) **Canyon Creek tributaries including Fly, Little Fly, Big Rock, Sorehead, Jakes, and Pelvey creeks (Clark/Skamania counties):** Open.

**(9) Carlisle Lake (Lewis County):**

(a) Open the fourth Saturday in April through last day in February.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Landlocked salmon rules apply.

(10) **Carson Creek (Skamania County):** Selective gear rules apply.

**(11) Castle Lake (Cowlitz County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one; minimum length 16 inches.

**(12) Cedar Creek (tributary of N.F. Lewis) (Clark County):**

- (a) From the mouth to Grist Mill Bridge:
  - (i) Open the first Saturday in June through August 31 and November 1 through March 15.
  - (ii) Selective gear rules apply.
  - (iii) Release all trout except anglers may retain up to 3 hatchery steelhead.
  - (iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(v) Salmon:(A) Open November 1 through December 31.(B) Limit 6; up to 2 may be adults.(C) Only hatchery Chinook and hatchery coho may be retained.

(b) From the Grist Mill Bridge to 100 feet upstream of the falls: Closed.

(c) From 100 feet upstream of the falls upstream:

- (i) Open the first Saturday in June through August 31.
- (ii) Selective gear rules apply.
- (iii) Release all fish except anglers may retain up to 3 hatchery steelhead.
- (iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

**(13) Cedar Creek tributaries including Bitter, Brush, Chelatchie, John, and Pup creeks (Clark County):** Selective gear rules apply.**(14) Chinook River (Pacific County):** From the Highway 101 Bridge upstream to source:

- (a) Selective gear rules apply.
- (b) Bass: No limit and no size restriction.
- (c) Channel catfish: No limit.
- (d) Walleye: No limit and no size restriction.

**(15) Cispus River (Lewis County):** From the mouth to the falls, not including the North Fork:(a) Open year-round.(b) Barbless hooks are required for salmon and steelhead.~~((b) From the mouth to the North Fork:~~~~(i) Open the first Saturday in June through October 31; release cutthroat.~~~~(ii) Open from November 1 through the Friday before the first Saturday in June.)~~ (c) Release all trout except anglers may retain up to 2 hatchery steelhead.~~((iii) Salmon:~~~~(A) Open year-round.~~~~(B) Limit 6; minimum size 8 inches.~~~~(C) Release wild coho and wild Chinook.~~~~(D) From January 1 through July 31, anglers may retain up to 2 adults as part of the limit.~~~~(E) From August 1 through December 31, up to 2 of the limit may be adult Chinook.)~~ (d) Fly fishing only from the North Fork to the falls.(e) Salmon:(i) Open year-round.(ii) Limit 6; up to 2 may be adults.(iii) Only hatchery Chinook and hatchery coho may be retained.**(16) Cispus River, North Fork (Lewis County):**

(a) Selective gear rules apply.

(b) Trout: Release cutthroat.

**(17) Coal Creek (Cowlitz County):**

(a) From the mouth to 400 feet below the falls:

(i) Open the first Saturday in June through August 31 and November 1 through last day in February.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restriction.

(iv) Channel catfish: No limit.

(v) Trout:

(A) Release all fish except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vi) Walleye: No limit and no size restriction.

(vii) Salmon:(A) Open November 1 through December 31.(B) Limit 6; up to 2 may be adults.(C) Only hatchery Chinook and hatchery coho may be retained.

(b) From the falls to 400 feet downstream: Closed.

(c) From the falls upstream to source including all tributaries: Release all fish except trout.

**(18) Coldwater Lake (Cowlitz County):**

(a) The Coldwater Lake inlet and outlet streams are closed.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one; minimum length 16 inches.

**(19) Cougar Creek (tributary to Yale Reservoir) (Cowlitz County):** Open the first Saturday in June through August 31.**(20) Coweeman River (Cowlitz County):**(a) Barbless hooks are required for salmon and steelhead.(b) From the mouth to Baird Creek:(i) Open the first Saturday in June through August 31 and November 1 through March 15.(ii) Salmon:(A) Open November 1 through December 31.(B) Limit 6; up to 2 may be adults.(C) Only hatchery Chinook and hatchery coho may be retained.(c) From Baird Creek upstream to the source, open the first Saturday in June through August 31.(d) Release all trout, except anglers may retain up to 3 hatchery steelhead.~~((iii) Barbless hooks are required for steelhead.~~~~(iv))~~ (e) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~((b) From Baird Creek upstream to the source:~~~~(i) Open the first Saturday in June through August 31.~~~~(ii) Release all trout, except anglers may retain up to 3 hatchery steelhead.~~~~(iii) Barbless hooks are required for steelhead.~~~~(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.)~~



**(21) Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County):**

(a) The upstream boundary of the reservoir in the Cowlitz arm is at the posted Lewis County PUD sign on Peters Road.

(b) The upstream boundary of the reservoir in the Cispus arm is at the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms.

(c) Barbless hooks are required for salmon and steelhead.

(d) Open year-round.

(e) Trout:

(i) Release cutthroat.

(ii) Release rainbow trout, except those with a clipped adipose fin with a healed scar at the site of the clipped fin.

(iii) From September 1 through the last day in February: Limit 10.

(f) Salmon open year-round:

(i) Limit 6; ~~((minimum length 8 inches))~~ up to 2 may be adults.

(ii) ~~((Release wild Chinook and wild coho.))~~ Minimum length 8 inches.

(iii) ~~((From January 1 through July 31: No more than 2 adult salmon may be retained.~~

~~(iv) From August 1 through December 31: No more than 2 adult hatchery Chinook.))~~ Only hatchery Chinook and hatchery coho may be retained.

**(22) Cowlitz River (Lewis County):**

(a) From the boundary markers at the mouth to Mayfield Dam:

(i) The following areas are closed:

(A) From 400 feet or posted markers below Cowlitz Salmon Hatchery barrier dam to boundary markers near the Cowlitz Salmon Hatchery water intake approximately 1,700 feet upstream of the Cowlitz Salmon Hatchery barrier dam.

(B) From 400 feet below the Mayfield powerhouse upstream to Mayfield Dam.

(C) Within a 100 foot radius of the new Cowlitz Trout Hatchery outfall structure, except open to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card within posted markers when adjacent waters are open.

(D) Within a 100 foot radius of the Cowlitz Salmon Hatchery wheelchair ramp (within the posted fishing boundary) except for anglers with disabilities and who have a designated harvester companion card.

(ii) Barbless hooks are required for salmon, steelhead, and cutthroat trout, except from the Lexington Drive Bridge (Sparks Road Bridge) at Lexington upstream to the barrier dam from June 1 through July 31.

(iii) Game fish other than trout: Open first Saturday in June through March 31.

(A) Bass: No limit and no size restriction.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restriction.

(iv) From Lexington Bridge to the barrier dam, fishing 2 poles is permissible so long as the angler possesses a valid two-pole endorsement.

(v) From the mouth of Mill Creek to the Cowlitz Salmon Hatchery barrier dam:

(A) April 1 through November 30:

(I) Anti-snagging rule applies. Anglers may only retain fish hooked in the mouth when the anti-snagging rule applies.

(II) Night closure in effect.

(B) It is unlawful to fish from a floating device.

(C) May 1 through June 15: It is unlawful to fish from the south side of the river.

(vi) Trout: Open year-round.

(A) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(B) First Saturday in June through March 31:

(I) Limit 5; minimum length 12 inches.

(II) Up to 3 hatchery steelhead may be retained.

(III) Release wild cutthroat.

(C) April 1 through the Friday before the first Saturday in June: Release all fish, except anglers may retain up to 3 hatchery steelhead.

(vii) Salmon:

(A) Open ~~((January 1 through July 31:~~

~~(H))~~ year-round.

~~(B) Limit 6; up to 2 ((hatchery adults)) may be ((retained)) adults.~~

~~((H))~~ (C) Only hatchery Chinook and hatchery coho may be retained.

~~((B) Open August 1 through December 31:~~

~~(I) Limit 6; up to 2 adult hatchery Chinook may be retained.~~

~~(H) Only hatchery Chinook and hatchery coho may be retained.))~~

(b) From the posted PUD sign on Peters Road to the ~~((mouth of Ohanapeesh River and the mouth of Muddy Fork))~~ Forest Road 1270 (old Jody's Bridge):

(i) Barbless hooks are required for salmon and steelhead.

(ii) September 1 through October 31: Anti-snagging rule applies and night closure in effect. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(iii) Open ~~((the first Saturday in June through October 31: Release cutthroat.~~

~~(iv) Open November 1 through the Friday before the first Saturday in June.))~~ year-round: Release trout except anglers may retain up to 2 hatchery steelhead.

~~((+))~~ (iv) Salmon:

(A) Open ~~((January 1 through July 31:~~

~~(H))~~ year-round.

~~(B) Limit 6; up to 2 ((adult salmon)) may be ((retained)) adults.~~

~~((H) Release wild coho and wild Chinook.~~

~~(B) Open August 1 through December 31:~~

~~(I) Limit 6; up to 2 adult hatchery Chinook may be retained.~~

~~(H) Release wild coho and wild Chinook.))~~ (C) Only hatchery Chinook and hatchery coho may be retained.

**(23) Cowlitz River, Clear and Muddy Forks (Lewis County):**

(a) Selective gear rules apply.

(b) Release cutthroat.

(24) **Davis Lake (Lewis County):** Open the fourth Saturday in April to last day in February.

(25) **Deep River (Wahkiakum County):**

(a) Game fish:

(i) Open year-round.

(ii) Trout: Release all trout except anglers may retain up to 2 hatchery steelhead.

(b) From mouth to town bridge:

(i) Channel catfish: No limit.

(ii) Walleye and bass: No limit and no size restriction.

(iii) Salmon:

~~(A)~~ Open year-round ~~((=~~

~~(A)))~~.

~~(B)~~ From March 1 through June 15, on days when the mainstem Columbia River recreational fishery below Bonneville Dam is open to the retention of Chinook salmon, the salmonid daily limit in Deep River is the same as in the adjacent mainstem Columbia. Otherwise:

~~((B) From January 1 through July 31:~~

~~(H))~~ ~~(C)~~ Limit 6, ~~((of which no more than))~~ up to 2 may be adults ~~((salmon))~~.

~~((H) Release wild Chinook and wild coho:~~

~~(C) From August 1 through December 31:~~

~~(I) Limit 6, of which no more than 2 may be adult Chinook:~~

~~(H) Release chum and wild coho:))~~ (D) Only hatchery

Chinook and hatchery coho may be retained.

(26) **Delemeter Creek (Cowlitz County):**

(a) Closed from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek.

(b) Release all fish except ~~((mandatory))~~ hatchery steelhead ~~((retention))~~ and hatchery cutthroat. Three hatchery trout limit. ~~((No catch and release of hatchery steelhead:~~

~~(c) Release all trout except hatchery steelhead and hatchery cutthroat:~~

~~(d))~~ Mandatory hatchery steelhead retention.

(c) Selective gear rules apply.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(27) **Dog Creek (Skamania County):** From the falls upstream to the source, release all fish except trout.

(28) **Drano Lake:** In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge:

(a) Barbless hooks are required for salmon and steelhead except from March 16 through June 30 and from October 1 through December 31.

(b) Closed on Wednesdays beginning the second Wednesday in April through June 30.

(c) Closed from 6 p.m. Tuesdays through 6 p.m. Wednesdays during the month of October.

(d) March 16 through June 30: Night closure in effect.

(e) August 1 through December 31: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(f) May 1 through June 30 and October 1 through December 31:

(i) Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(ii) Two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(g) The area west of a line projected from the eastern-most pillar of the Highway 14 Bridge to a posted marker on the north shore is open only to bank fishing from April 16 through June 30.

(h) Open year-round.

(i) Bass: No limit and no size restriction.

(j) Channel catfish: No limit.

(k) Trout: Open January 1 through March 15; release trout, except anglers may retain up to 2 hatchery steelhead.

(l) Walleye: No limit and no size restriction.

(m) Salmon and steelhead: Open March 16 through December 31:

(i) From March 16 through July 31: Limit 2 hatchery steelhead or 2 hatchery Chinook, or one of each.

(ii) From August 1 through December 31: Limit 6; no more than 3 adults, of which only 2 hatchery steelhead may be retained.

(29) **Elochoman River (Wahkiakum County):**

(a) The following areas are closed:

(i) ~~((The waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack:~~

~~(ii) The waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river:~~

~~(iii))~~ From 200 feet above the department of fish and wildlife temporary weir downstream to Foster (Risk) Road Bridge while the weir is installed in the river.

(ii) September 1 through October 31: From 200 feet above the temporary weir upstream to the Elochoman Hatchery Bridge.

(b) From the mouth to West Fork:

(i) Open the first Saturday in June through March 15.

(ii) August 1 through October 31: Anti-snagging rule, night closure, and stationary gear restriction apply. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(iii) August 1 through March 15: Barbless hooks are required for salmon and steelhead.

(iv) Trout: Release all fish except anglers may retain up to 3 hatchery steelhead.

(v) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) From the mouth to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack:

(i) Open the last Saturday in May through the Friday before the first Saturday in June for bass, channel catfish, salmon, steelhead, and walleye.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restriction.

(iv) Channel catfish: No limit.

(v) Walleye: No limit and no size restriction.

(vi) Salmon and steelhead:  
~~((Daily)) (A) Limit 6 ((fish)); up to 3 may be hatchery adult Chinook or hatchery steelhead, and no more than 2 may be salmon.~~

~~((A)) (B) Release wild Chinook salmon.~~

~~((B)) (C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~

~~((vi) Walleye: No limit and no size restriction.))~~

(vii) Salmon:

(A) Open the first Saturday in June through December 31.

(B) ~~((From the first Saturday in June through July 31:))~~ Limit 6 ~~((hatchery Chinook, of which no more than))~~; up to 2 may be adults.

(C) ~~((From August 1 through December 31:~~

~~(F) Limit 6 fish, of which no more than 2 may be adult Chinook.~~

~~((H) Release chum, wild coho, and wild Chinook.))~~ Only hatchery Chinook or hatchery coho may be retained.

(d) From West Fork upstream to the source:

(i) Release all fish except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iii) Salmon:

(A) Open the first Saturday in June through October 31.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(30) **Falls Creek (Cowlitz County):**

(a) Selective gear rules apply.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) Walleye: No limit and no size restriction.

(31) **Fort Borst Park Pond (Lewis County):** Open the fourth Saturday in April through the last day in February, except closed the Monday before Thanksgiving Day through Thanksgiving Day.

(32) **Franz Lake (Skamania County):** Closed.

(33) **Germany Creek (Cowlitz County)** and all tributaries including John and Loper creeks:

(a) Open the first Saturday in June through August 31 and November 1 through March 15.

(b) Selective gear rules apply.

(c) Bass: No limit and no size restriction.

(d) Channel catfish: No limit.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(f) Walleye: No limit and no size restriction.

(g) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(34) **Gobar Creek (tributary to Kalama River) (Cowlitz County):**

(a) Open the first Saturday in June through March 31.

(b) Selective gear rules apply.

(c) Release all fish except adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.

(d) Trout: No minimum size. Three hatchery fish limit.

(e) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(35) **Goble Creek (Cowlitz County):**

(a) Open the first Saturday in June through August 31 and November 1 through March 15.

(b) Release all fish except anglers may retain up to 3 hatchery steelhead.

~~((b))~~ (c) Selective gear rules apply.

(d) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(36) **Grays River (Wahkiakum County):** From the mouth to South Fork:

(a) Barbless hooks are required for salmon and steelhead.

(b) Open the first Saturday in June through March 15, except closed from Highway 4 Bridge to mouth of South Fork from October 16 through November 30.

(c) Closed from 400 feet below to 200 feet above the temporary weir while the weir is installed in the river.

(d) Anti-snagging rule, night closure and stationary gear restriction apply:

(i) From the mouth to the Highway 4 Bridge August 1 through November 15.

(ii) From the Highway 4 Bridge to the mouth of South Fork August 1 through October 15.

(iii) When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(e) Game fish:

(i) Release all fish except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iii) From the mouth to Highway 4 Bridge:

(A) Bass: No limit and no size restriction.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restriction.

(f) From South Fork upstream to source, selective gear rules apply.

(g) Salmon:

(i) From the mouth to the Highway 4 Bridge: ~~((A))~~ Open the first Saturday in June through December 31.

~~((B) From the first Saturday in June through July 31:))~~

(A) Limit 6 ((hatchery Chinook, of which no more than)); up to 2 may be adults.

~~((C) From August 1 through December 31:~~

~~(F) Limit 6, of which no more than 2 may be adult Chinook.~~

~~((H) Release chum, wild coho, and unmarked Chinook.))~~

(B) Only hatchery Chinook or hatchery coho may be retained.

(C) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.

(ii) From the Highway 4 Bridge to the South Fork:  
~~((A))~~ Open the first Saturday in June through October 15 and December 1 through December 31.

~~((B) From the first Saturday in June through July 31:))~~

(A) Limit 6 ((hatchery Chinook, of which no more than)); up to 2 may be adults.

~~((C) From August 1 through October 15 and December 1 through December 31:~~

~~(I) Limit 6 fish, of which no more than 2 may be adult Chinook.~~

~~(H) Release chum, wild coho, and unmarked Chinook.~~

~~(g) From South Fork upstream to source: Selective gear rules apply.))~~ (B) Only hatchery Chinook or hatchery coho may be retained.

(C) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.

**(37) Grays River, East Fork (Wahkiakum County):**

(a) Selective gear rules apply.

(b) Release all fish except anglers may retain up to 3 hatchery steelhead.

(c) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(d) Salmon:

(i) Open the first Saturday in June through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(iv) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.

**(38) Grays River, South Fork (Wahkiakum County):**

(a) Release all fish except anglers may retain up to 3 hatchery steelhead.

(b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

(d) Salmon:

(i) Open the first Saturday in June through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(iv) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.

**(39) Grays River, West Fork (Wahkiakum County):**

(a) Downstream from the hatchery intake/footbridge:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open the first Saturday in June through March 15, except closed October 16 through November 30 from the posted markers approximately 300 yards below the hatchery road bridge downstream to the mouth.

(iii) August 1 through November 15: Anti-snagging rule, night closure and stationary gear restriction apply. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(iv) From the first Sunday in June through March 15: Release all fish except anglers may retain up to 3 hatchery steelhead.

(v) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vi) Salmon: Open from first Saturday in June through December 31.

~~(A) ((From the first Saturday in June through July 31:))~~ Limit 6 ~~((hatchery Chinook, of which no more than)); up to 2 may be adults.~~

~~(B) ((From August 1 through December 31:~~

~~(I) Limit 6, of which not more than 2 may be adult Chinook.~~

~~(H) Release chum, wild coho, and unmarked Chinook:))~~

Only hatchery Chinook or hatchery coho may be retained.

(C) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.

(b) From the hatchery intake/footbridge upstream to source:

(i) Open the first Saturday in June through March 15.

(ii) Release all fish except anglers may retain up to 3 hatchery steelhead.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((iv))~~ (c) Selective gear rules apply.

(d) Salmon:

(i) Open the first Saturday in June through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(iv) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.

**(40) Green River (Cowlitz County):**

(a) From the mouth to Miner's Creek:

(i) Catch and release except up to 3 hatchery steelhead may be retained.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iii) From August 1 through November 30, barbless hooks are required for salmon and steelhead.

(iv) The following areas are closed:

(A) From 400 feet above and 400 feet below the salmon hatchery rack (or from the posted signs above and below the salmon hatchery rack) when the rack is installed in the river.

(B) From 400 feet below to 400 feet above the water intake at the upper end of the hatchery grounds from September 1 through November 30.

(C) From the 2800 Bridge to Miner's Creek.

(v) September 1 through October 31: Anti-snagging rule applies and night closure in effect from the mouth to 400 feet below the salmon hatchery rack. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(vi) Open the last Saturday in May through November 30~~(-)~~; From the last Saturday in May through the Friday before the first Saturday in June in the waters from the mouth to 400 feet below the Toutle Hatchery water intake: Selective gear rules apply.

(vii) Salmon:

(A) Open August 1 through November 30.

(B) Limit 6~~((, no more than 2 adult Chinook)); up to 2 may be ((retained)) adults.~~

(C) ((Release chum, wild coho, and wild Chinook:)) Only hatchery Chinook and hatchery coho may be retained.

(b) From Miner's Creek upstream to the source:

(i) Open from the first Saturday in June through October 31.

- (ii) Selective gear rules apply.
- (iii) Catch and release only.
- (41) **Grizzly Lake (Skamania County):** Closed.
- (42) **Hamilton Creek (Skamania County):**
  - (a) Selective gear rules apply.
  - (b) Bass: No limit and no size restriction.
  - (c) Channel catfish: No limit.
  - (d) Trout:
    - (i) Release all trout except anglers may retain up to 3 hatchery steelhead.
    - (ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
    - (e) Walleye: No limit and no size restriction.
    - (f) All tributaries downstream from the Highway 14 Bridge: Closed.
    - (g) Salmon:
      - (i) Open August 1 through October 31.
      - (ii) Limit 6; up to 2 may be adults.
      - (iii) Only hatchery Chinook and hatchery coho may be retained.
- (43) **Hemlock Lake (Trout Creek Reservoir) (Skamania County):** Closed.
- (44) **Horseshoe Lake (Clark/Cowlitz counties):**
  - (a) Trout: It is unlawful to retain more than 2 trout 20 inches or more in length.
  - (b) Landlocked salmon rules apply.
- (45) **Icehouse Lake (Skamania County):** It is unlawful to retain more than 2 trout 20 inches or greater in length.
- (46) **Indian Heaven Wilderness Lakes (Skamania County):** Trout limit 3.
- (47) **Johnson Creek (Lewis County) (Cowlitz River tributary):**
  - (a) Selective gear rules apply.
  - (b) Trout: Minimum length 10 inches.
- (48) **Kalama River (Cowlitz County):**
  - (a) From boundary markers at the mouth upstream to 1,000 feet above the fishway at the upper salmon hatchery:
    - (i) Open year-round, except the following areas are closed:
      - (A) From 1,000 feet below to 1,000 feet above the fishway at upper salmon hatchery.
      - (B) From Modrow Bridge downstream to the markers 1,500 feet below the temporary rack when the rack is installed below Modrow Bridge.
    - (ii) Barbless hooks are required for salmon and steelhead.
    - (iii) Game fish:
      - (A) Release all fish except bass, channel catfish, trout, hatchery steelhead, and walleye.
      - (B) Bass: No limit and no size restriction.
      - (C) Channel catfish: No limit.
      - (D) Trout:
        - (I) Mandatory hatchery steelhead retention.
        - (II) No catch and release of hatchery steelhead.
        - (E) Walleye: No limit and no size restriction.
    - (iv) April 1 through October 31: Anti-snagging rule applies and night closure in effect from the railroad bridge below I-5 to the intake at the lower salmon hatchery. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.
  - (v) It is unlawful to fish from a floating device equipped with an internal combustion motor upstream of Modrow Bridge.
  - (vi) Open September 1 through October 31 for fly fishing only from the natural gas pipeline crossing to the posted deadline at the intake to the lower salmon hatchery.
  - (vii) From March 16 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 3 hatchery steelhead.
  - (viii) From the first Saturday in June through March 15: Release all fish except anglers may retain up to 3 adipose clipped trout as evidenced by a healed scar at the location of the adipose fin. No minimum size.
  - (ix) Salmon:
    - (A) Open (~~January 1 through April 30;~~ ~~(H)~~ year-round.
    - (B) Limit 6 (~~(hatchery Chinook); up to 2 may be adults.~~ ~~((H) No more than one adult hatchery Chinook may be retained.~~ ~~(B) Open August 1 through December 31;~~ ~~(I) Limit 6; no more than 2 adult hatchery Chinook may be retained.~~ ~~(H) Release all salmon other than hatchery Chinook and hatchery coho.)) (C) Only hatchery Chinook and hatchery coho may be retained.~~
  - (b) From 1,000 feet above the fishway at the upper salmon hatchery, upstream to Summers Creek:
    - (i) Open year-round.
    - (ii) It is unlawful to fish from a floating device equipped with a motor.
    - (iii) Selective gear rules apply.
    - (iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
    - (v) From March 16 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 3 hatchery steelhead.
    - (vi) From the first Saturday in June through March 15: Release all fish except anglers may retain up to 3 adipose clipped trout as evidenced by a healed scar at the location of the adipose fin. No minimum size.
    - (c) From Summers Creek upstream to Kalama Falls:
      - (i) Closed from the 6420 Road (approximately one mile above the gate at the end of the county road) to Kalama Falls.
      - (ii) Open the first Saturday in June through March 31 for fly fishing only.
      - (iii) Release all fish, except anglers may retain up to 3 adipose clipped trout as evidenced by a healed scar at the location of the adipose fin.
        - (A) No minimum size.
        - (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
      - (d) From Kalama Falls upstream to source: Open.
  - (49) **Kanaka Creek (Skamania County):** Selective gear rules apply.
  - (50) **Kidney Lake (Skamania County):** Open the fourth Saturday in April through last day in February.
  - (51) **Klineline Ponds (Clark County):**
    - (a) Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(b) It is unlawful to retain more than 2 trout 20 inches or more in length.

**(52) Kress Lake (Cowlitz County):**

(a) Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to retain more than 2 trout 20 inches or more in length.

(d) Landlocked salmon rules apply.

**(53) Lacamas Creek (Clark County):**

(a) From the mouth to the footbridge at the lower falls:

(i) Open the first Saturday in June through August 31.

(ii) Release all fish except anglers may retain up to 3 hatchery steelhead.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Selective gear rules apply.

(b) From the footbridge at the lower falls upstream to the source: It is permissible to fish up to the base of Lacamas Lake Dam.

(c) From footbridge at lower falls and from Round Lake upstream to source and all tributaries (Clark County) including Spring Branch, Big Ditch, Fifth Plain Creek, Matney Creek, Buck Creek, David Creek, North Fork and East Fork Lacamas Creek (Clark County): Statewide season, minimum size, and limits apply.

**(54) Lacamas Creek, tributary of Cowlitz River (Lewis County):**

(a) Selective gear rules apply.

(b) Trout: Limit 3.

(c) Release all trout except anglers may retain hatchery steelhead and hatchery cutthroat.

**(d) Salmon:**

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(55) Lewis River (Clark County):**

(a) Mouth to the mouth of Colvin Creek:

(i) Open year-round except the following areas are closed:

(A) From Johnson Creek upstream May 1 through May 31.

(B) Those waters shoreward of the cable buoy and cork-line at the mouth of the Lewis River Salmon Hatchery fish ladder.

(ii) Barbless hooks are required for salmon and steelhead.

(iii) Fishing 2 poles is permissible from Railroad Bridge near Kuhns Road upstream to Johnson Creek, so long as the angler possesses a two-pole endorsement.

(iv) Anti-snagging rule applies and night closure in effect from Johnson Creek to Colvin Creek June 1 through November 30 and April 1 through April 30. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(v) Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vi) Salmon:

(A) Open January 1 through April 30: Limit 6 hatchery Chinook; ~~((no more than))~~ only one may be an adult.

(B) Open August 1 through the fourth Friday in September ~~((+5))~~:

(I) Limit 6 ~~((hatchery salmon; no more than))~~; up to 2 may be adults ~~((hatchery Chinook))~~.

~~((Release all salmon except))~~ Only hatchery Chinook and hatchery coho may be retained.

(C) Open the fourth Saturday in September ~~((+6))~~ through December 31:

(I) Limit 6; ~~((no more than))~~ up to 2 may be adults ~~((Chinook))~~.

~~((Release all salmon except))~~ Only Chinook and hatchery coho may be retained.

(vii) Bass: No limit and no size restriction.

(viii) Channel catfish: No limit.

~~((+7))~~ (ix) Walleye: No limit and no size restriction.

(b) From the mouth of Colvin Creek to the overhead powerlines at Merwin Dam:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open June 1 through October 31 and December 16 through April 30.

(iii) Anti-snagging rule applies and night closure in effect April 1 through April 30 and June 1 through October 31. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(iv) Bass: No limit and no size restriction.

(v) Channel catfish: No limit.

(vi) Trout:

(A) Release all fish except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vii) Walleye: No limit and no size restriction.

(viii) Salmon:

(A) Open August 1 through October 31 and December 16 through April 30.

(B) From January 1 through April 30: Limit 6 hatchery Chinook; only one may be an adult ~~((salmon))~~.

(C) From August 1 through the fourth Friday in September ~~((+5))~~:

(I) Limit 6 ~~((hatchery salmon; only))~~; up to 2 may be adults ~~((hatchery Chinook))~~.

~~((Release all salmon except))~~ (II) Only hatchery Chinook and hatchery coho may be retained.

(D) From the fourth Saturday in September ~~((+6))~~ through October 31 and December 16 through December 31:

(I) Limit 6 ~~((salmon; only))~~; up to 2 may be adults ~~((Chinook))~~.

~~((Release all salmon except))~~ (II) Only Chinook and hatchery coho may be retained.

(c) From the overhead powerlines below Merwin Dam to Merwin Dam: Closed.

(d) From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed.

(e) From the old Lewis River streambed between Swift No. 1 Powerhouse and Swift No. 2 Powerhouse and Lewis River Power Canal upstream to fishing pier: Closed.

(f) Within Lewis River Power Canal from the fishing pier to the access road at Swift Dam:

(i) Open the fourth Saturday in April through October 31.

(ii) It is unlawful to fish from a floating device.

(iii) Trout: Limit 5; no minimum size.

(A) From Eagle Cliff Bridge to the lower falls, including all tributaries: Selective gear rules apply.

(B) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(C) Catch and release only.

(g) From lower falls upstream and all tributaries including Copper, Alec, Quartz, Straight (tributary of Quartz), Snagtooth (tributary of Quartz), French (tributary of Quartz), Tillicum, Steamboat, Pin, Pass, Swampy, Riley, No Name (tributary of Riley), Big Spring (tributary of Riley), Mutton (tributary of Riley), and Boulder creeks (Skamania Co.): Statewide season, minimum size, and limits.

**(56) Lewis River, East Fork (Clark/Skamania counties):**

(a) The following areas are closed:

(i) From the posted markers at the lower end of Big Eddy to 100 feet above Lucia Falls.

(ii) From 400 feet below to 400 feet above Moulton Falls.

(iii) From 400 feet below Horseshoe Falls upstream, including all tributaries above Horseshoe Falls.

(b) From the mouth to 400 feet below Horseshoe Falls:

(i) Open the first Saturday in June through March 15.

(ii) Barbless hooks are required for salmon and steelhead.

(iii) Release all trout except anglers may retain up to 3 hatchery steelhead.

(iv) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(d) From the mouth to the top boat ramp at Lewisville Park:

(i) Additional hatchery steelhead season from April 16 through the Friday before the first Saturday in June.

(ii) Selective gear rules apply.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Release all fish except anglers may retain up to 3 hatchery steelhead.

**(57) Little Ash Lake (Skamania County):** It is unlawful to retain more than 2 trout 20 inches or more in length.

**(58) Little Washougal River (Clark County):**

(a) Release all fish except anglers may retain up to 3 hatchery steelhead.

(b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(59) Little White Salmon River (Skamania County) and all tributaries including Rock, Lapham, Lava, Moss, Wilson, Cabbage, Berry, Lusk, Homes, and Beetle creeks:**

(a) Open the Saturday before Memorial Day through October 31, except Little White Salmon River is closed from the orange fishing boundary markers at Drano Lake upstream to the intake near the north boundary of the Little White Salmon National Fish Hatchery.

(b) Release all fish except trout.

(c) Trout: Limit 5.

**(60) Love Lake (Clark County):** Closed.

**(61) Mayfield Lake (Reservoir) (Lewis County):**

(a) Open from the Mayfield Dam to Onion Rock Bridge.

(b) From the Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam: Closed.

(c) Trout:

(i) Minimum length 8 inches.

(ii) Release cutthroat and rainbow trout, except it is permissible to retain rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin.

(iii) September 1 through last day in February: Limit 10.

(d) Salmon open September 1 through December 31:

(i) Minimum length 8 inches.

(ii) Limit 6, no more than 2 may be adults ((~~salmon~~)).

(iii) ((~~Release wild coho and wild Chinook.~~)) Only hatchery Chinook and hatchery coho may be retained.

**(62) Merrill Lake (Cowlitz County):**

(a) Open for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

**(63) Merwin Lake (Reservoir) (Clark/Cowlitz counties):**

(a) Landlocked salmon rules apply.

(b) Kokanee: Limit 10; kokanee do not count as part of the trout limit.

**(64) Merwin Lake (Reservoir)(Clark/Cowlitz counties) tributaries including Marble, Cape Horn, Day, Jim, Indian George, Squaw, Buncombe Hollow, Rock creeks, Speelyai Creek and its tributaries, Brooks, and West Fork creeks (except Canyon Creek):** Statewide season, minimum size, and limits apply.

**(65) Mill Creek (Cowlitz County):**

(a) Open the first Saturday in June through August 31 and November 1 through March 15.

(b) Selective gear rules apply.

(c) Bass: No limit and no size restriction.

(d) Channel catfish: No limit.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(f) Walleye: No limit and no size restriction.

(g) Salmon:(i) Open November 1 through December 31.(ii) Limit 6; up to 2 may be adults.(iii) Only hatchery Chinook and hatchery coho may be retained.**(66) Mill Creek (Lewis County):** From the mouth to the hatchery road crossing culvert.

(a) Selective gear rules apply.

(b) Open the first Saturday in June through October 31 and from December 1 through December 31.

(c) Anti-snagging rule applies and night closure in effect December 1 through December 31. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(d) Release all fish except anglers may retain up to 3 trout.

(e) Release all trout except hatchery steelhead and hatchery cutthroat.

(f) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(g) Salmon:(i) Open August 1 through October 31 and December 1 through December 31.(ii) Limit 6; up to 2 may be adults.(iii) Only hatchery Chinook and hatchery coho may be retained.**(67) Mineral Lake (Lewis County):** Open the fourth Saturday in April through September 30.**(68) Mulholland Creek (Cowlitz County):**(a) Open first Saturday in June through August 31 and November 1 through March 15.

(b) Catch and release except anglers may retain up to 3 hatchery steelhead.

~~((b))~~ (c) Selective gear rules apply.(d) Salmon:(i) Open November 1 through December 31.(ii) Limit 6; up to 2 may be adults.(iii) Only hatchery Chinook and hatchery coho may be retained.**(69) Nelson Creek (Skamania County):** Selective gear rules apply.**(70) Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties):**

(a) Selective gear rules apply.

(b) Trout: Minimum length 12 inches.

**(71) Olequa Creek (Lewis/Cowlitz counties):**

(a) Closed from 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek.

(b) Trout: Limit 3.

(c) Release all trout except hatchery steelhead and hatchery cutthroat.

(d) Selective gear rules apply.

(e) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(f) Salmon:(i) Open August 1 through October 31.(ii) Limit 6; up to 2 may be adults.(iii) Only hatchery Chinook and hatchery coho may be retained.(72) **Ostrander Creek (Cowlitz County):** Selective gear rules apply.**(73) Outlet Creek (Cowlitz County):**

(a) First Saturday in June through November 30.

(b) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

(d) Salmon:(i) Open August 1 through November 30.(ii) Limit 6; up to 2 may be adults.(iii) Only hatchery Chinook and hatchery coho may be retained.**(74) Packwood Lake (Lewis County):**

(a) Closed: All inlet streams and the outlet from the log boom to the dam.

(b) Open the fourth Saturday in April through October 31.

(c) Selective gear rules apply.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Trout: Minimum length 10 inches.

**(75) Plummer Lake (Lewis County):** Open the fourth Saturday in April through the last day in February.**(76) Rainey Creek (Lewis County):**

(a) Open from the mouth to Highway 12.

(b) Trout limit 5; release cutthroat and rainbow trout, except it is permissible to retain rainbow trout that have a clipped adipose fin and a healed scar at the location of the clipped fin.

**(77) Riffe Lake (Reservoir) (Lewis County):**

(a) Open from Mossyrock Dam to Cowlitz Falls Dam, except closed from Cowlitz Falls Dam downstream to the Lewis County PUD safety signs located approximately 800 feet below the dam.

(b) It is permissible to fish up to the base of Swofford Pond Dam.

(c) Landlocked salmon rules apply.

**(78) Riffe Lake (Reservoir) tributaries (Lewis County)** (excluding Rainey Creek), including Sulphur, Simmons, Swigert, Shelton, Steel Canyon, Indian, Sand, Landers, Peterson, Goat, and Tumwater creeks: Statewide season, minimum size, and limits apply.**(79) Rock Creek (Skamania County):**

(a) Open from the mouth to the falls at approximately river mile one.

(i) From the first Saturday in June through March 15.

(ii) Bass: No limit and no size restriction.

(iii) Channel catfish: No limit.

(iv) Walleye: No limit and no size restriction.(v) Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((c))~~ (b) Barbless hooks are required for salmon and steelhead.~~((v))~~ Walleye: No limit and no size restriction.



~~(b))~~ (c) **Salmon:**

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(d) From the falls upstream to source/headwaters and all tributaries including Spring Creek, Hot Springs, Budweiser Creek, Forest Creek, Steep Creek, North Fork Rock Creek, and Snag Creek: Statewide seasons, minimum size, limits apply.

(80) **Salmon Creek (Clark County):** From the mouth to 182nd Avenue Bridge:

(a) Open the first Saturday in June through March 15.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) **Walleye:** No limit and no size restriction.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((e) Steelhead: Barbless hooks are required.~~

~~(f) Walleye: No limit and no size restriction.)) (f) Barbless hooks are required for salmon and steelhead.~~

(g) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(81) **Salmon Creek (Lewis County):**

(a) Release all fish except anglers may retain up to 3 hatchery trout.

(b) Release all trout except hatchery steelhead and hatchery cutthroat.

(c) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(d) Selective gear rules apply.

(e) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook or hatchery coho may be retained.

(82) **Silver Lake (Cowlitz County):** Crappie limit 10; minimum length 9 inches.

(83) **Silver Creek (tributary to Cowlitz River) (Lewis County):**

(a) Open from the mouth to USFS Road 4778.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(84) **Skamokawa Creek (Wahkiakum County):**

(a) Open the first Saturday in June through August 31 and November 1 through March 15.

(b) Bass: No limit and no size restriction.

(c) Channel catfish: No limit.

(d) **Walleye:** No limit and no size restriction.

(e) Trout:

(i) Release all trout except anglers may retain up to 3 hatchery steelhead.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(f) Selective gear rules apply.

(g) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(85) **Skate Creek (tributary to Cowlitz River) (Lewis County):**

(a) Release all cutthroat.

(b) Selective gear rules apply.

(86) **South Lewis County Park Pond (Lewis County):** Closed the Monday before Thanksgiving Day through Thanksgiving Day.

(87) **Spirit Lake (Skamania County):** Closed.

(88) **Stillwater Creek (Lewis County):**

(a) Trout: Limit 3.

(i) Release all trout except hatchery steelhead and hatchery cutthroat.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Selective gear rules apply.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(89) **Swift Reservoir (Skamania County):**

(a) Open the first Saturday in June through November 30.

(b) Release all trout, except rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin may be retained.

(c) From the posted markers approximately 3/8 mile below Eagle Cliff Bridge to the bridge: Selective gear rules apply.

(d) From the dam to the markers approximately 3/8 mile below Eagle Cliff Bridge: Trout limit 10 from September 1 through November 30.

(e) Salmon:

(i) Open the first Saturday in June through November 30.

(ii) Landlocked salmon rules apply.

(iii) Maximum length 15 inches.

(90) **Swift Reservoir tributaries (Skamania County)** including Ole, Swift, Worm, Diamond, Marble, Range, Drift, and Camp creeks: Selective gear rules apply.

(91) **Swofford Pond (Lewis County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(92) **Tilton River (Lewis County):**

(a) Open year-round from the mouth to the West Fork.

(b) Barbless hooks are required for salmon and steelhead.

(c) First Saturday in June through July 31: Selective gear rules apply.

(d) September 1 through October 31: Anti-snagging rule applies and night closure in effect. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(e) Release all (~~cutthroat~~) trout except 2 hatchery steelhead may be retained.

- (f) Salmon (~~open August 1 through December 31;~~  
(i) ~~Minimum length 8 inches;~~)  
(i) Open year-round.  
(ii) ~~Limit 6; ((no more than 2 adult Chinook may be retained))~~ up to 2 may be adults.  
(iii) ~~((Release wild coho and wild Chinook.))~~ Only hatchery Chinook and hatchery coho may be retained.
- (93) **Tilton River, East, North, South and West Forks (Lewis County):**  
(a) Selective gear rules apply.  
(b) Trout: Minimum length 12 inches.
- (94) **Toutle River (Cowlitz County):** From the mouth to the forks, and the North Fork from the mouth to the posted deadline below the fish collection facility:  
(a) Open the first Saturday in June through November 30.  
(b) September 1 through October 15: Anti-snagging rule applies and night closure in effect on the North Fork from the confluence with the South Fork to the mouth of Green River. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.  
(c) Barbless hooks are required for salmon and steelhead.  
(d) Game fish:  
(i) Release all fish except anglers may retain up to 3 hatchery steelhead.  
(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.  
(e) Salmon open August 1 through November 30:  
(i) Limit 6(~~(no more than))~~; up to 2 may be adults ((Chinook)).  
(ii) ~~((Release chum, wild coho, and wild Chinook.))~~ Only hatchery Chinook and hatchery coho may be retained.
- (95) **Toutle River, South Fork (Cowlitz County):**  
(a) Release all fish except anglers may retain up to 3 hatchery steelhead.  
(b) Trout:  
(i) Barbless hooks are required for salmon and steelhead from August 1 through November 30.  
(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.  
(c) Salmon:  
(i) Open August 1 through November 30.  
(ii) Limit 6; up to 2 may be adults.  
(iii) Only hatchery Chinook and hatchery coho may be retained.  
(d) From the mouth to 4700 Road Bridge:  
(i) Open the last Saturday in May to the Friday before the first Saturday in June.  
(ii) Selective gear rules apply.  
(~~((e))~~) (e) From the mouth to the 4100 Road Bridge:  
(i) Open the first Saturday in June through March 15.  
(ii) From December 1 through March 15 selective gear rules apply.  
(~~((e))~~) (f) From 4100 Road Bridge upstream to source: Open the first Saturday in June through November 30.
- (96) **Tunnel Lake (Skamania County):** It is unlawful to retain more than 2 trout 20 inches or more in length.
- (97) **Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River**

**drawbridge near Vancouver downstream to Lewis River (Clark County):**

- (a) Vancouver Lake flushing channel and the lake shoreline 400 feet east and west of the channel exit: Closed April 1 through May 31.  
(b) Chumming is permissible.  
(c) Trout: Release all trout except anglers may retain up to 2 hatchery steelhead.
- (98) **Walupt Lake (Lewis County):**  
(a) All inlet streams are closed.  
(b) Open the fourth Saturday in April through October 31.  
(c) Selective gear rules apply.  
(d) Trout: Minimum length 10 inches.
- (99) **Washougal River (Clark County):** From the mouth to the bridge at Salmon Falls:  
(a) Closed from 1,000 feet (or posted markers) below to 200 feet above the temporary weir when the weir is installed in the river.  
(b) Open the first Saturday in June through March 15.  
(c) Barbless hooks are required for salmon and steelhead.  
(d) Night closure in effect:  
(i) Year-round from the mouth to Mount Norway Bridge.  
(ii) August 1 through October 31 from Mount Norway Bridge upstream.  
(e) Anti-snagging rule applies:  
(i) July 1 through October 31 from the mouth to Mount Norway Bridge; and  
(ii) August 1 through October 31 from Mount Norway Bridge upstream.  
(iii) When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.  
(f) Bass: No limit and no size restriction.  
(g) Channel catfish: No limit.  
(h) Trout:  
(i) Release all trout except anglers may retain up to 3 hatchery steelhead.  
(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.  
(i) Walleye: No limit and no size restriction.  
(j) Open from April 16 through the Friday before the first Saturday in June:  
(i) Selective gear rules apply.  
(ii) Bass: No limit and no size restriction.  
(iii) Channel catfish: No limit.  
(iv) Trout:  
(A) Release all trout except anglers may retain up to 3 hatchery steelhead.  
(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.  
(v) Walleye: No limit and no size restriction.  
(k) Salmon:  
(i) Open August 1 through December 31.  
(ii) Limit 6; ~~((no more than 2))~~ up to 2 may be adults ((may be hatchery Chinook)).  
(iii) ~~((Release chum, wild coho, and wild Chinook.))~~ Only hatchery Chinook and hatchery coho may be retained.
- (100) **Washougal River, West (North) Fork (Clark/Skamania counties):**

(a) From the mouth to the water intake at the department hatchery: Closed.

(b) From the intake at the department hatchery to the source:

(i) Open the first Saturday in June through March 15.

(ii) Trout:

(A) Release all trout except anglers may retain up to 3 hatchery steelhead.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

~~((iii))~~ (c) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(d) Barbless hooks are required for salmon and steelhead.

**(101) Willame Lake (Lewis County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit 2; minimum length 15 inches.

**(102) Wind River (Skamania County):**

(a) From the mouth to 100 feet above Shipherd Falls:

(i) Barbless hooks are required for salmon and steelhead except from March 16 through June 30.

(ii) Closed from 400 feet below to 100 feet above Shipherd Falls fish ladder, including all tributaries.

(iii) March 16 through June 30: Night closure in effect.

(iv) March 16 through 31: Closed from the Highway 14 Bridge upstream.

(v) August 1 through October 31: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(vi) May 1 through June 30:

(A) Anti-snagging rule applies from the Highway 14 Bridge upstream. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(B) From the mouth to the Highway 14 Bridge, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved and two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(vii) Open year-round.

(viii) Bass: No limit and no size restriction.

(ix) Channel catfish: No limit.

(x) Trout:

(A) Open November 1 through March 15.

(B) Release all trout except anglers may retain up to 3 hatchery steelhead.

(xi) Salmon and steelhead:

(A) Open March 16 through July 31:

(I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release wild Chinook.

(B) Open August 1 through October 31:

(I) From the mouth to the Highway 14 Bridge, the limit and retention regulations for hatchery and wild fish follows the most liberal regulations of the mainstem Columbia and Wind rivers when both areas are open concurrently for salmon.

(II) Limit 6; up to 2 adults may be retained.

(III) ~~((Release wild coho and wild Chinook.))~~ Only hatchery Chinook or hatchery coho may be retained.

(xii) Walleye: No limit and no size restriction.

(b) From 100 feet above Shipherd Falls to Moore Bridge:

(i) The following areas are closed: All tributaries; from 400 feet below to 100 feet above Coffey Dam.

(ii) From 100 feet above Shipherd Falls to 800 yards downstream from Carson National Fish Hatchery:

(A) Open September 16 through November 30:

(I) Catch and release only.

(II) Selective gear rules apply.

(B) Salmon and steelhead open May 1 through June 30:

(I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained;

(II) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead;

(III) Anti-snagging rule applies;

(IV) Only fish hooked inside the mouth may be retained;

(V) Night closure in effect.

(ii) From 800 yards downstream from Carson National Fish Hatchery to Moore Bridge open September 16 through November 30:

(A) Catch and release only.

(B) Selective gear rules apply.

**(103) Winston Creek (tributary to Cowlitz River) (Lewis County):**

(a) Selective gear rules apply.

(b) Trout: Minimum length 10 inches.

**(104) Yale Reservoir (Cowlitz County):**

(a) Kokanee: Limit 16; kokanee do not count toward the trout limit.

(b) Landlocked salmon rules apply.

**(105) Yale Reservoir tributaries (Cowlitz and Clark counties) excluding Cougar Creek and including Dog, Dry, Siouxon and its tributaries including North Siouxon, West, Horseshoe, Wildcat, Chinook, and Calamity creeks: State-wide season, minimum size and limits apply.**

**(106) Yellowjacket Creek (tributary to Cispus River) (Lewis County):**

(a) Selective gear rules apply.

(b) Trout: Minimum length 12 inches.

AMENDATORY SECTION (Amending WSR 16-06-073, filed 2/26/16, effective 7/1/16)

**WAC 220-310-190 Freshwater exceptions to state-wide rules—Puget Sound.** (1) Beaver ponds located within or adjacent to streams that drain into Puget Sound listed as open to trout and other game fish follow the same rules as the adjacent stream.

**(2) County-wide freshwater exceptions to statewide rules:**

(a) Beaver ponds in Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3):

(i) Open the fourth Saturday in April through October 31.

(ii) Trout: No minimum length.

(b) Beaver ponds in Kitsap County and Mason County east of Belfair-Bremerton Highway (S.R. 3):

(i) Open the first Saturday in June through October 31.

(ii) Trout: No minimum length.

(3) **Alder Lake (Thurston County):** Kokanee limit 10; kokanee do not count toward the trout daily limit. See also Nisqually River.

(4) **Aldrich Lake (Mason County):** Open the fourth Saturday in April through October 31.

(5) **Alexander Lake (Kitsap County):** Closed.

(6) **All Creek (Skagit County) (Suittle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(7) **Alma Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to two hatchery steelhead.

(8) **American Lake (Pierce County):** Chumming is permissible.

(9) **Anderson Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(10) **Anderson Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(11) **Armstrong Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(12) **Bacon Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(13) **Bacus Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(14) **Bainbridge Island - All streams (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

(15) **Baker Lake (Whatcom County):**

(a) Chumming is permissible.

(b) Closed waters within a two hundred foot radius around the pump discharge at the south end of the lake.

(c) Open the fourth Saturday in April through October 31:

(d) Kokanee: Minimum length 8 inches and maximum length 18 inches.

(e) Salmon: Open July 10 through September 7.

(i) Sockeye: Limit 4; minimum length 18 inches.

(ii) Each angler aboard a vessel may deploy salmon angling gear until the limit for all licensed and juvenile anglers aboard is reached.

(16) **Baker River (Skagit County):**

(a) From the mouth to Highway 20 Bridge:

(i) Open September 1 through October 31.

(ii) Night closure in effect.

(iii) Anti-snagging rule applies.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(b) From the Highway 20 Bridge to the Baker River fish barrier dam: Closed.

(c) From the Baker River fish barrier dam to the headwaters to Shannon and Baker lakes, including tributaries and their tributaries, except Channel Creek: Open the first Saturday in June through October 31.

(17) **Barnaby Slough (Skagit County):** Closed.

(18) **Beaver Creek (Pierce County) (South Prairie Creek tributary):** Open the first Saturday in June through October 31.

(19) **Beaver Creek (Thurston County) from the mouth to I-5:**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Night closure in effect.

(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(20) **Beaver Lake (King County):** Trout: No more than 2 over 15 inches in length.

(21) **Benson Lake (Mason County):** Open the fourth Saturday in April through October 31.

(22) **Bertrand Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(23) **Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 to juvenile anglers only.

(24) **Big Beaver Creek (Whatcom County), from 1/4 mile upstream of the closed water markers on Ross Lake upstream, including tributary streams and beaver ponds:**

(a) Open July 1 through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(25) **Big Beef Creek (Kitsap County):**

(a) From Seabeck Highway Bridge to Lake Symington:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(v) August 1 through August 31: Closed within 100 feet of the Seabeck Highway N.W. Bridge.

(b) From Lake Symington upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Catch and release only.

**(26) Big Creek (Skagit County) (Suitttle River tributary):**

(a) From TeePee Falls to the source: Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(27) Big Mission Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(28) Big Quilcene River (Jefferson County):**

(a) From the mouth to Rodgers Street:

(i) Open the first Saturday in June through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From Rodgers Street to the Highway 101 Bridge:

(i) Open the first Saturday in June through October 31.

(ii) Catch and release only.

(iii) From the first Saturday in June through August 15:

(A) Selective gear rules apply.

(B) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(v) Salmon:

(A) Open August 16 through October 31.

(B) Limit 4 coho only; only coho hooked inside the mouth may be retained.

(c) From the electric weir at Quilcene National Fish Hatchery to the upper boundary of Falls View campground:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(d) From the upper boundary of Falls View campground upstream: Open the Saturday before Memorial Day through October 31.

**(29) Big Scandia Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(30) Big Soos Creek (King County):** From the mouth to the hatchery rack:

(a) Open the first Saturday in June through August 31.

(b) Trout: Minimum length 14 inches.

**(31) Bingham Creek (Mason County) (Satsop River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(32) Black Creek (Snohomish County) (South Fork Stillaguamish River tributary):** Open the Saturday before Memorial Day through October 31 from the Bear Creek confluence upstream.

**(33) Black Lake (Thurston County):** Crappie: Limit 10; minimum length 9 inches.

**(34) Black Lake Ditch (Thurston County):** From the confluence with Percival Creek upstream to Black Lake.

(a) Selective gear rules apply.

(b) Open the first Saturday in June through October 31.

(c) Trout: Minimum size 14 inches.

(d) Open November 1 through the first Friday in June: Catch and release only.

**(35) Blackjack Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(36) Blackman's Lake (Snohomish County):** Trout limit 5; no more than 2 over 15 inches in length.

**(37) Blooms Ditch (Thurston County) (Black River tributary):** From the mouth to I-5:

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Night closure in effect.

(d) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(38) Boise Creek (King County) (White River tributary):** Open the first Saturday in June through October 31 upstream of the Highway 410 crossing.

**(39) Bosworth Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

**(40) Boulder Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(41) Boulder River (Snohomish County) (N.F. Stillaguamish River tributary):**

(a) From the mouth to Boulder Falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(b) From Boulder Falls upstream: Open the Saturday before Memorial Day through October 31.

**(42) Boxley Creek (North Bend, King County) (Tributary to the South Fork Snoqualmie River):** Open the Saturday before Memorial Day through October 31 upstream from the falls located approximately at river mile 0.9.

**(43) Boyle Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) The inlet and outlet streams to Boyle Lake are closed.

**(44) Bradley Lake (Pierce County):**

(a) Open May 15 through the last day of free fishing weekend, as defined in WAC 220-55-160, to juvenile anglers only.

(b) Salmon: Landlocked salmon rules apply.

**(45) Bridges Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) The inlet and outlet streams to Bridges Lake are closed.

**(46) Buck Creek (Skagit County) (Suitttle River tributary):**

(a) Open the first Saturday in June through October 31 from the upstream boundary of Buck Creek campground.

(b) Selective gear rules apply.

(47) **Buck Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

(48) **Burley Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(49) **Cady Lake (Mason County):**

(a) Open to fly fishing only.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

(50) **Cain Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

(51) **California Creek (Whatcom County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(52) **Calligan Lake (King County):**

(a) Open June 1 through October 31.

(b) All tributary streams and the upper third of the outlet are closed.

(c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(53) **Camp Creek (Snohomish County) (Whitechuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(54) **Campbell Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(55) **Campbell Lake (Skagit County):**

Grass carp: No limit for anglers and bow and arrow fishing.

(56) **Canyon Creek (Snohomish County) (Suiattle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(57) **Canyon Creek (Snohomish County) (S.F. Stillaguamish River):**

(a) Open the first Saturday in June through January 31 from the mouth to the forks.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(58) **Canyon Creek (Whatcom County) (North Fork Nooksack River):**

(a) Open the Saturday before Memorial Day through October 31 from Canyon Creek Road Bridge upstream, including tributaries.

(b) Selective gear rules apply.

(59) **Capitol Lake (Thurston County):** Closed.

(60) **Carbon River (Pierce County):**

(a) From the mouth to Voight Creek:

(i) Open September 1 through January 15.

(ii) From September 1 through November 30: Night closure in effect and anti-snagging rule applies.

(iii) Trout:

(A) September 1 through November 30: Minimum length 14 inches.

(B) From December 1 through January 15:

(I) Selective gear rules apply.

(II) Release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon:

(A) Open September 1 through November 30.

(B) Limit 6 fish of which no more than 4 may be adult salmon and, of the 4 adults, no more than 2 may be adult hatchery Chinook.

(C) Release chum and wild adult Chinook salmon.

(b) From Voight Creek to the Highway 162 Bridge:

(i) Open from November 1 through January 15.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(61) **Carney Lake (Pierce County):**

(a) Open the fourth Saturday in April through June 30 and September 1 through November 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Salmon: Landlocked salmon rules apply.

(62) **Carson Lake (Mason County):** Open the fourth Saturday in April through October 31.

(63) **Cascade Creek (San Juan County):**

(a) Open the first Saturday in June through October 31 from the mouth to Cascade Lake.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain eastern brook trout.

(64) **Cascade Lake (San Juan County):** Open the fourth Saturday in April through October 31.

(65) **Cascade River (Skagit County):**

(a) From the mouth to the Rockport-Cascade Road Bridge:

(i) Open June 1 through July 15 and September 16 through January 31:

(A) Anti-snagging rule applies and night closure in effect June 1 through July 15 and September 16 through November 30.

(B) Trout: Limit 2; minimum length 14 inches. Anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(ii) Salmon:

(A) Open June 1 through July 15:

(I) Up to 4 hatchery Chinook may be retained; only 2 hatchery Chinook may be adults.

(II) Release all other salmon.

(B) Open September 16 through November 30:

(I) Up to 4 coho may be retained.

(II) Release all other salmon.

(b) From the Rockport-Cascade Road Bridge upstream:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(66) **Cavanaugh Creek (Whatcom County) and all tributaries:** Open the Saturday before Memorial Day through October 31 upstream from where Cavanaugh Creek first flows into Whatcom County, 0.4 lineal miles from its confluence with the South Fork Nooksack River.

(67) **Cavanaugh Lake (Skagit County):** Chumming is permissible.

(68) **Cayada Creek (Pierce County) (Carbon River tributary):** Open the first Saturday in June through October 31.

(69) **Cedar Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(70) **Cedar River (King County):**

(a) Open the first Saturday in June through August 31 from the mouth to Landsburg Road.

(b) Selective gear rules apply and night closure.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Catch and release only.

(71) **Chain Lake (Snohomish County):**

(a) Selective gear rules apply.

(b) Trout: Limit 2; minimum length 14 inches.

(72) **Chambers Creek (Pierce County):**

(a) From the mouth (Burlington Northern Bridge) to the markers 400 feet below the Boise-Cascade Dam (Pierce County):

(i) Selective gear rules apply, except bait is permissible September 1 through October 15.

(ii) Open July 1 through November 15 for game fish and salmon.

(iii) Night closure in effect and anti-snagging rule applies.

(iv) Trout: Catch and release.

(v) Salmon:

(A) Limit 6 fish of which no more than 4 may be adult salmon.

(B) Release wild coho.

(b) From Boise-Cascade Dam to Steilacoom Lake:

(i) Open July 1 through October 31.

(ii) Night closure in effect and selective gear rules apply.

(iii) Trout: Minimum size 14 inches.

(73) **Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Catch and release only.

(74) **Channel Creek (Skagit County) (Baker River tributary):** Open the first Saturday in June through August 31.

(75) **Chaplain Creek (Snohomish County) (Sultan River tributary):**

(a) Above the falls near the mouth to the inlet to the beaver pond (Grass Lake) below the water filtration plant gate, including tributaries and beaver ponds: Open the Saturday before Memorial Day through October 31.

(b) Waters adjacent to the water filtration plant, from the inlet to the beaver pond (Grass Lake) below the water filtration plant gate to the waterfall approximately .4 miles upstream: Closed.

(c) Above the waterfall located approximately .4 miles upstream of the water filtration plant gate, including tributaries and beaver ponds: Open the Saturday before Memorial Day through October 31.

(76) **Chaplain Lake (Snohomish County):** Closed.

(77) **Cherry Creek (King/Snohomish County) (tributary to the Snoqualmie River):** Open the Saturday before Memorial Day through October 31 above Cherry Creek Falls (located at river mile 9.3, approximately 1 mile upstream of Stossel/Kelly Rd), including all tributaries and beaver ponds.

(78) **Chilliwack River (Whatcom County):** Open the first Saturday in June through October 31, including all tributaries and their tributaries.

(79) **Church Creek (Mason County):** Open the Saturday before Memorial Day through October 31 upstream of the bridge on U.S. Forest Service Road #2361.

(80) **Clara Lake (also known as "Don Lake") (Mason County):** Open the fourth Saturday in April through October 31.

(81) **Clarks Creek (Pierce County):**

(a) Open the first Saturday in June through August 15 from the mouth to 12th Avenue S.W.

(b) Selective gear rules apply.

(c) Trout: Limit 2; minimum length 14 inches.

(82) **Clear Creek (Snohomish County) (Sauk River tributary):** Open the Saturday before Memorial Day through October 31 from Asbestos Creek Falls.

(83) **Clear Lake (Pierce County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(c) Kokanee: Limit 10; no size restrictions.

(d) Salmon: Landlocked salmon rules apply.

(84) **Clear Lake (Thurston County):** Open the fourth Saturday in April through October 31.

(85) **Clearwater River (Pierce County):**

(a) Open July 1 through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(86) **Clover Creek (Pierce County):**

(a) Open July 1 through October 31 upstream of Steilacoom Lake, including all tributaries.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(87) **Coal Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 to juvenile anglers only.

(88) **Coal Creek (near Snoqualmie) (King County):**

(a) From the mouth to Highway I-90:

(i) Open the fourth Saturday in April through October 31 to juvenile anglers only.

(ii) Trout: No minimum length.

(b) From Highway I-90 upstream: Open the Saturday before Memorial Day through October 31.

(89) **Copper Creek (Snohomish County) (Clear Creek tributary, a tributary of Sauk River):** Open the Saturday before Memorial Day through October 31.

(90) **Cottage Lake (King County):** Open the fourth Saturday in April through October 31.

(91) **Coulter Creek (Kitsap/Mason counties):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(92) **County Line Ponds (Skagit County):** Closed.

(93) **Crabapple Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(94) **Cranberry Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(95) **Crescent Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

(96) **Crescent Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(97) **Cumberland Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from the USFS 17 Road Bridge located 0.7 lineal miles from its confluence with the Skagit River, including all tributaries.

(98) **Dakota Creek (Whatcom County):**

(a) Open the first Saturday in June through December 31 from the mouth to Giles Road Bridge.

(b) Selective gear rules apply.

(c) Salmon:

(i) Open October 1 through December 31.

(ii) Limit 2 salmon.

(iii) Release wild Chinook.

(99) **De Coursey Pond (Pierce County):**

(a) Open the fourth Saturday in April through November 30 to juvenile anglers only.

(b) Salmon: Landlocked salmon rules apply.

(100) **Decker Creek (Mason County) (Satsop River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(101) **Deer Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(102) **Deer Lake (Island County):** Open the fourth Saturday in April through October 31.

(103) **Deer Lake (Mason County):** Open the fourth Saturday in April through October 31.

(104) **Dempsey Creek (Thurston County) (Black River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(105) **Deschutes River (Thurston County):**

(a) From Old Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park:

(i) Selective gear rules apply, except bait is allowed September 1 through October 15.

(ii) Trout: Open year-round; catch and release only.

(iii) All other game fish: Open the first Saturday in June through October 15.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) Limit 6; no more than 2 adult salmon may be retained.

(C) Release coho.

(b) From Henderson Boulevard Bridge upstream:

(i) Open year-round.

(ii) Selective gear rules apply.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) Limit 6; no more than 2 adult salmon may be retained.

(C) Release coho.

(106) **Devereaux Lake (Mason County):** Open the fourth Saturday in April through October 31.

(107) **Dewatto River (Mason County):**

(a) From the mouth to Dewatto-Holly Road Bridge:

(i) Open the first Saturday in June through August 15 and October 1 through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) October 1 through October 31: Night closure in effect.

(v) Game fish: Catch and release only.

(vi) Salmon:

(A) Open October 1 through October 31.

(B) Limit 2 coho.

(b) From Dewatto-Holly Road Bridge upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(108) **Diobsud Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(109) **Dogfish Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

(110) **Dosewallips River (Jefferson County):**

(a) From the mouth to Highway 101 Bridge:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all gamefish.

(v) Salmon:

(A) Open November 1 through December 15.

(B) Limit 2 chum only.

(b) From Highway 101 Bridge to Olympic National Park boundary about three-quarters of a mile downstream of the falls:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all gamefish.

(111) **Downey Creek (Snohomish County) (Suittle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(112) **Duckabush River (Jefferson County):**

(a) From the mouth to Mason County PUD #1 overhead distribution line:



- (i) Open the first Saturday in June through August 31.
- (ii) Selective gear rules apply.
- (iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (iv) Release all game fish.
- (v) Salmon:
  - (A) Open November 1 through December 15.
  - (B) Limit 2 chum only.
- (b) From Mason County PUD #1 overhead distribution line to the Olympic National Park boundary:
  - (i) Open the first Saturday in June through August 31.
  - (ii) Selective gear rules apply.
  - (iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
  - (iv) Catch and release only.
- (113) Dyes Inlet (Kitsap County):**
  - (a) Open the first Saturday in June through October 31 for all streams.
  - (b) Selective gear rules apply.
  - (c) Trout: Minimum size 14 inches.
- (114) Eaton Creek (Thurston County) (Lake St. Clair tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (115) Echo Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
- (116) Eglon Creek (Kitsap County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Trout: Minimum size 14 inches.
- (117) Erie Lake (Skagit County):** Open the fourth Saturday in April through October 31.
- (118) Evans Creek (Pierce County) (Carbon River tributary):** Open the first Saturday in June through October 31 from Carbon River Fairfax Road upstream.
- (119) Falls Creek (Snohomish County) (Sauk River tributary):** From the falls located 0.4 mile upstream from the mouth to the headwaters: Open the Saturday before Memorial Day through October 31.
- (120) Fazon Lake (Whatcom County):**
  - (a) It is unlawful to fish from any floating device from the first Friday in October through January 27.
  - (b) Channel catfish: Limit 2.
- (121) Finch Creek (Mason County):** Anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card may fish from the ADA accessible site at the Hoodport Salmon Hatchery, so long as those anglers follow all applicable rules of the adjoining waters of Marine Area 12.
- (122) Finney Creek (Skagit County) including all tributaries from upstream of the USFS 17 road bridge:** Open the Saturday before Memorial Day through October 31.
- (123) Fisher Slough (Snohomish County):**
  - (a) Open the first Saturday in June through October 31 from the mouth to the I-5 Bridge.
  - (b) Trout: Minimum length 14 inches.
- (124) Fishtrap Creek (Whatcom County):** Open from Kok Road to Bender Road from the first Saturday in June through October 31 for juvenile anglers only.
- (125) Fiske Creek (Pierce County) (Puyallup River tributary):** Open upstream from Fiske Road from the first Saturday in June through October 31.
- (126) Fortson Mill Pond #2 (Snohomish County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.
- (127) Found Creek (Skagit County) (Cascade River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Catch and release only.
- (128) Fox Creek (Pierce County) (Puyallup River tributary):** Open upstream from Fiske Road from the first Saturday in June through October 31.
- (129) Friday Creek (Whatcom County) (Samish River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (130) Fulton Creek (Mason County):**
  - (a) From the mouth to falls at river mile 0.8:
    - (i) Open the first Saturday in June through October 31.
    - (ii) Selective gear rules apply.
    - (iii) Catch and release only.
  - (b) From the falls at river mile 0.8 upstream: Open the Saturday before Memorial Day through October 31.
- (131) Gale Creek (Pierce County) (South Prairie Creek tributary):** Open upstream of the confluence with Wilkeson Creek from the first Saturday in June through October 31.
- (132) Gamble Creek (Kitsap County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Catch and release only.
- (133) Geneva Lake (King County):** Open the fourth Saturday in April through October 31.
- (134) Gissberg Pond, North (Snohomish County):** Open for juvenile anglers only.
- (135) Gissberg Ponds (Snohomish County):** Channel catfish limit 2; no minimum size.
- (136) Goldsborough Creek (Mason County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Trout: Catch and release only.
- (137) Goodell Creek (Skagit County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Release all fish except anglers may retain up to 2 hatchery steelhead.
- (138) Goodman Creek (Skagit County) above the Mountain Loop Highway:** Open Saturday before Memorial Day through October 31.
- (139) Goodwin Lake (Snohomish County):** Chumming is permissible.
- (140) Goss Lake (Island County):** Open the fourth Saturday in April through October 31.
- (141) Grade Creek (Snohomish County) (Suittale River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.

(142) **Granite Lakes (near Marblemount) (Skagit County):** Grayling: Catch and release only.

(143) **Grass Lake (Mason County):** Open the fourth Saturday in April through October 31.

(144) **Green (Duwamish) River (King County):**

(a) From the First Avenue South Bridge to Tukwila International Boulevard/Old Highway 99:

(i) September 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) November 1 through January 15: It is unlawful to fish from any floating device.

(iii) Open the first Saturday in June through July 31 and September 1 through January 15: Trout minimum length 14 inches.

(iv) In years ending in odd numbers, open for game fish and salmon August 20 through August 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Open August 20 through December 31.

(II) Limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 6; no more than 3 adults may be retained.

(III) Release Chinook.

(b) From Tukwila International Boulevard/Old Highway 99 to the Interstate 405 Bridge:

(i) September 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) In years ending in odd numbers: Open for salmon and gamefish August 20 through August 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(iii) November 1 through January 15: It is unlawful to fish from any floating device.

(iv) Open the first Saturday in June through July 31 and September 1 through January 15; trout minimum length 14 inches.

(v) In years ending in odd numbers, open for gamefish and salmon August 20 through December 31.

(vi) Salmon:

(A) In years ending in odd numbers:

(I) Open August 20 through December 31.

(II) Limit 6 salmon; no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 6; only 3 adults may be retained.

(III) Release Chinook.

(c) From the Interstate 405 Bridge to South 277th Street Bridge in Auburn:

(i) October 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) November 1 through January 15: It is unlawful to fish from any floating device.

(iii) Open the first Saturday in June through July 31 and October 1 through January 15: Trout minimum length 14 inches.

(iv) In years ending in odd numbers, open for game fish and salmon September 1 through September 30:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Open September 1 through December 31.

(II) Limit 6; no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open October 1 through December 31.

(II) Limit 6; only 3 adults may be retained.

(III) Release Chinook.

(d) From the 277th Street Bridge to Auburn-Black Diamond Road Bridge:

(i) October 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) November 1 through January 31: It is unlawful to fish from a floating device.

(iii) Open the first Saturday in June through August 15 and October 16 through January 31; trout minimum length 14 inches.

(iv) In years ending in odd numbers, open for game fish and salmon September 16 through October 15:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use bait.

(D) It is unlawful to use anything other than one single-point hook measuring 1/2 inch or less from point to shank.

(E) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Open September 16 through December 31.

(II) Limit 6; no more than 3 may be any combination of adult coho and adult chum.

(III) Release Chinook.

(B) In years ending in even numbers:

(I) Open October 16 through December 31.

(II) Limit 6; only 3 adults may be retained.

(III) Release Chinook.

(e) From the Auburn-Black Diamond Road Bridge to the mouth of Cristy Creek at Flaming Geyser State Park:

(i) Closed waters within 150 feet of the mouth of Keta (Crisp) Creek.

(ii) August 1 through September 15 and November 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Open the first Saturday in June through September 15 and November 1 through January 31; trout minimum length 14 inches.

(iv) Salmon open November 1 through December 31.

(A) In years ending in odd numbers:

(I) Limit 6; no more than 3 may be any combination of adult coho and adult chum.

(II) Release Chinook.

(B) In years ending in even numbers:

(I) Limit 6; only 3 adults may be retained.

(II) Release Chinook.

(f) From the mouth of Cristy Creek at Flaming Geyser State Park to the water pipeline walk bridge (1/2 mile downstream of Tacoma Headworks Dam):

(i) Closed waters within 150 feet of the Palmer Pond outlet rack.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Open the first Saturday in June through January 31: Trout minimum length 14 inches.

(iv) Salmon open November 1 through December 31:

(A) In years ending in odd numbers:

(I) Limit 6; no more than 3 may be any combination of adult coho and adult chum.

(II) Release Chinook.

(B) In years ending in even numbers:

(I) Limit 6; only 3 adults may be retained.

(II) Release Chinook.

(g) From Friday Creek upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

**(145) Greenwater River (King County):**

(a) From the mouth to Greenwater Lakes:

(i) Open November 1 through January 31.

(ii) Release all fish except whitefish.

(iii) Whitefish gear rules apply.

(b) From Greenwater Lakes upstream: Open the first Saturday in June through October 31.

**(146) Grovers Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(147) Hamma Hamma River (Mason County):**

(a) From the mouth to 400 feet below the falls:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From the falls upstream: Open the Saturday before Memorial Day through October 31.

**(148) Hancock Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) All tributary streams and the upper third of the outlet are closed.

(c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

**(149) Hansen Creek (Skagit County):** Including all tributaries and their tributaries:

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(150) Harrison Slough (Skagit County):** Open the first Saturday in June through October 31.

**(151) Hatchery Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(152) Haven Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(153) Heart Lake (near Anacortes) (Skagit County):** Open the fourth Saturday in April through October 31.

**(154) Heins Lake (Kitsap County):** Closed.

**(155) Hicks Lake (Thurston County):** Open the fourth Saturday in April through October 31.

**(156) Hilt Creek (Skagit County) (Sauk River tributary) and all connected tributaries and beaver ponds above the falls (located 0.2 miles above the Highway 530 crossing):** Open the Saturday before Memorial Day through October 31.

**(157) Horseshoe Lake (Kitsap County):**

(a) Open the fourth Saturday in April through October 31.

(b) Salmon: Landlocked salmon rules apply.

**(158) Howard Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from where Howard Creek flows into Section 13 of Township 36N, Range 6E, 0.3 lineal miles upstream from the South Fork Nooksack River, including all tributaries.

**(159) Howard Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

**(160) Howell Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(161) Hozomeen Lake (Whatcom County):**

(a) Open July 1 through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

**(162) Hylebos Creek (Pierce County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

**(163) Illabot Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(164) Illahee Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(165) Issaquah Creek (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(166) Jackman Creek (Skagit County):** Open the Saturday before Memorial Day through October 31 from the falls located 0.7 miles above Highway 20 upstream.

(167) **Jackson Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(168) **Jefferson Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(169) **Jennings Park Pond (Snohomish County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

(170) **Johns Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(171) **Johnson Creek (Thurston County) (Skookumchuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(172) **Johnson Creek (Whatcom County):** Open the first Saturday in June through October 31 from the Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas for juvenile anglers only.

(173) **Jones Creek (Skagit County):** Open the Saturday before Memorial Day through October 31 above the falls located 0.6 miles above Highway 20 upstream.

(174) **Jordan Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(175) **Jorsted Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(176) **Kelsey Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

(177) **Kendall Creek (Whatcom County) (N.F. Nooksack tributary):** ~~((a))~~ Open the Saturday before Memorial Day through October 31 above the hatchery grounds.

~~((b) Selective gear rules apply.)~~

(178) **Kennedy Creek (Mason County):**

(a) From the mouth to ~~((400 feet below the falls))~~ Highway 101 Bridge:

(i) Open the first Saturday in June through the last day in February.

(ii) October 1 through December 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout minimum length 14 inches.

(iv) Salmon:

(A) Open October 1 through November 30.

(B) Limit 6; no more than 2 adults may be retained.

(C) Release wild coho.

(b) From Highway 101 Bridge to 400 feet below the falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply ((January 1 through September 30)).

(iii) Trout: Catch and release only.

(iv) October 1 through ((December)) October 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

~~((iv) Trout: Minimum length 14 inches.~~

~~(v) Salmon:~~

~~(A) Open October 1 through November 30 from the mouth to the northbound Highway 101 Bridge.~~

~~(B) Limit 6; no more than 2 adults may be retained.~~

~~(C) Release wild coho.~~

~~(b))~~ (c) From the falls upstream, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply within the mainstem of Kennedy Creek.

(179) **Kennedy Creek Pond (Thurston County):** Open the fourth Saturday in April through October 31.

(180) **Ki Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(181) **Kimball Creek (near Snoqualmie) (King County):**

(a) Open the fourth Saturday in April through October 31 for juvenile anglers only.

(b) Trout: No minimum length.

(182) **Kindy Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(183) **King's Creek (Pierce County) (Puyallup River tributary):** Open the first Saturday in June through October 31.

(184) **Kings Lake Bog (King County):** Closed.

(185) **Klaus Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) The inlet and outlet to first Weyerhaeuser spur are closed.

(186) **Koeneman Lake (Fern Lake) (Kitsap County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

(187) **Ladder Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(188) **Langlois Lake (King County):** Open the fourth Saturday in April through October 31.

(189) **LeBar Creek (Mason County):** Open the Saturday before Memorial Day through October 31 from the falls at river mile one upstream.

(190) **Lena Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(191) **Lilliwaup River (Mason County):**

(a) From the mouth to 200 feet below the falls:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From the falls upstream: Open the Saturday before Memorial Day through October 31.

**(192) Lime Creek (Snohomish County) (Suiattle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(193) Limerick Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(194) Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(195) Little Mission Creek (Mason County) from falls upstream:**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(196) Little Scandia Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(197) Lone Lake (Island County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit 1; minimum length 18 inches.

(d) Grass carp: No limit for anglers and bow and arrow fishing.

**(198) Long's Pond (Thurston County):** Open for juvenile anglers only.

**(199) Lyle Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

**(200) Maggie Lake (Mason County):** Open the fourth Saturday in April through November 30.

**(201) Malaney Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

**(202) Maple Creek (Whatcom County) (N.F. Nooksack tributary) above Maple Falls:** Open the Saturday before Memorial Day through October 31.

**(203) Marble Creek (Skagit County) (Cascade River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(204) Margaret Lake (King County):** Open the fourth Saturday in April through October 31.

**(205) Marsh Creek (Snohomish County) (Sultan River tributary):** Open the Saturday before Memorial Day through October 31 above the falls, including tributaries and beaver ponds.

**(206) Martha Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

**(207) Martha Lake (Warm Beach) (Snohomish County):**

(a) Selective gear rules apply.

(b) Trout: Limit 2; minimum length 14 inches.

**(208) May Creek (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(209) McAllister Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

(d) Salmon:

(i) Open July 1 through November 30.

(ii) Limit 6; of which no more than 2 may be adults.

**(210) McLane Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release.

(d) Night closure in effect.

**(211) McLane Creek Ponds (Thurston County):** Open the fourth Saturday in April through October 31.

**(212) McMurray Lake (Skagit County):**

(a) Open the fourth Saturday in April through October 31.

(b) Landlocked salmon rules apply.

**(213) Melbourne Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(214) Mercer Slough (tributary of Lake Washington) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(215) Milk Creek (Snohomish County) (Suiattle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(216) Mill Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

**(217) Mill Pond (Auburn) (King County):** Open the fourth Saturday in April through October 31 for juvenile anglers only, except open for all anglers during free fishing weekend, as defined by department rule.

**(218) Mima Creek (Thurston County) (Black River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(219) Minter Creek (Pierce/Kitsap counties):** From the mouth to the fishing boundary markers approximately 50 feet downstream of the hatchery rack:

(a) Open for salmon November 1 through December 31.

(b) Night closure in effect.

(c) Limit 4 chum; release all other salmon.

**(220) Mission Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

**(221) Monte Cristo Lake (Snohomish County):**

(a) Open the first Saturday in June through August 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

**(222) Mountain Lake (San Juan County):** It is unlawful to retain more than one trout over 18 inches in length.

**(223) Mud Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(224) Munn Lake (Thurston County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

(225) **New Pond Creek (Pierce County) (South Prairie Creek tributary):** Open the first Saturday in June through October 31.

(226) **Newhalem Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 above the power facility.

(227) **Newhalem Ponds (Whatcom County):** Closed.

(228) **Nisqually River (Pierce County):**

(a) From the mouth to Military Tank Crossing Bridge:

(i) Closed August 3 through August 5, August 10 through August 12, August 17 through August 19, August 24 through August 26, August 31 through September 2, September 8 through September 10, September 14 through September 16, September 21 through September 23, and September 28 through September 29.

(ii) July 1 through January 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

(iii) Open July 1 through January 31:

(A) From July 1 through November 30: Trout minimum length 14 inches.

(B) From December 1 through January 31: Catch and release.

(iv) Salmon open July 1 through January 31.

(A) In years ending in even numbers, from July 1 through October 31:

(I) Limit 6; no more than 3 adults may be retained, and only 2 adults may be any combination of chum and coho.

(II) Release wild Chinook.

(B) In years ending in odd numbers, from July 1 through October 31:

(I) Limit 6; no more than 3 adults may be retained plus one pink salmon; no more than 2 adults may be any combination of chum and coho.

(II) Release wild Chinook.

(C) From November 1 through January 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release wild Chinook.

(b) From Military Tank Crossing Bridge to 400 feet below La Grande Powerhouse:

(i) Open July 1 through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) From Alder Reservoir upstream including all tributaries:

(A) Open the Saturday before Memorial Day through October 31.

(B) Selective gear rules apply.

(C) Trout minimum length 14 inches.

(v) Alder Reservoir tributaries:

(A) Open the Saturday before Memorial Day through October 31.

(B) Trout: Daily limit 2 over 14 inches in length.

(C) Selective gear rules apply.

(229) **Nookachamps Creek (Skagit County):**

(a) Open the first Saturday in June through October 31, including all tributaries and their tributaries.

(b) Selective gear rules apply.

(230) **Nooksack River (Whatcom County):**

(a) From the Lummi Indian Reservation boundary to the yellow marker at the FFA High School barn at Deming:

(i) Open the first Saturday in June through January 31.

(ii) From the first Saturday in June through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon:

(A) Open September 1 through December 31:

(I) Limit 2, plus 2 additional coho.

(II) Release wild Chinook September 1 through September 30.

(B) Open July 16 through August 31 from Lummi Indian Reservation boundary to Highway 544 Bridge at Everson during odd-numbered years:

(I) Limit 4 pink salmon.

(II) It is unlawful to use bait.

(III) It is unlawful to use anything other than single-point hooks measuring 1/2 inch or less from point to shank.

(b) From the yellow marker at the FFA High School barn in Deming to the confluence of the forks:

(i) Open from October 1 through January 31.

(ii) October 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon open October 1 through December 31: Limit 2, plus anglers may retain 2 additional coho.

(231) **Nooksack River, North Fork (Whatcom County):**

(a) From the mouth to Maple Creek:

(i) Open the first Saturday in June through February 15.

(ii) From the first Saturday in June through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) November 1 through February 15: It is unlawful to fish from a floating device equipped with a motor.

(iv) Trout minimum length 14 inches.

(v) Salmon open October 1 through November 30: Limit 2 salmon, plus anglers may retain 2 additional coho.

(b) From Maple Creek to Nooksack Falls:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) November 1 through January 31: It is unlawful to fish from a floating device equipped with a motor.

(iv) Trout: Minimum length 14 inches.

(c) The waters above Nooksack Falls, including all tributaries and their tributaries are open the Saturday before Memorial Day through October 31.

(232) **Nooksack River, Middle Fork (Whatcom County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the city of Bellingham diversion dam:

(i) November 1 through January 31: It is unlawful to use motors.

(ii) Open the first Saturday in June through January 31.

(iii) Selective gear rules apply.

(iv) Trout: Minimum size 14 inches.

(c) The waters above the diversion dam, including all tributaries and their tributaries are open the Saturday before Memorial Day through October 31.

**(233) Nooksack River, South Fork (Skagit/Whatcom counties):**

(a) Release all fish except mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Skookum Creek:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) From the first Saturday in June through November 30: Night closure in effect.

(iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(v) Salmon open October 1 through December 31:

(A) Limit 2; plus anglers may retain 2 additional coho.

(B) Release chum.

(C) In years ending in odd numbers, release pink salmon.

(c) Upstream from and including Wanlick Creek, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31 for fly fishing only.

(ii) Catch and release only except mandatory hatchery steelhead retention.

**(234) North Creek (Snohomish/King counties) (tributary of Sammamish River):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(235) North Lake (King County):** Open the fourth Saturday in April through October 31.

**(236) Northern State Hospital Pond (Skagit County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

**(237) Ohop Creek (Pierce County):**

(a) Open July 1 through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(238) Ohop Lake (Pierce County):** There are no size restrictions for kokanee.

**(239) Olalla Creek (Kitsap County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(240) Old Fishing Hole Pond (Kent, King County):** Open the fourth Saturday in April through October 31 for juvenile anglers only.

**(241) Olney Creek (Snohomish County) (Wallace River tributary):** The waters upstream of Olney Falls, including tributaries and beaver ponds are open the Saturday before Memorial Day through October 31.

**(242) Olson Creek (Skagit County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(243) Osborne Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(244) O'Toole (Marietta) Creek (Whatcom County):** The waters upstream from Marietta Falls, located 0.3 lineal miles from the Skagit River, are open the Saturday before Memorial Day through October 31.

**(245) Outlet Creek (Mason County) (Satsop River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(246) Owl Creek (Snohomish County) (Whitechuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(247) Padden Lake (Whatcom County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(248) Panhandle Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(249) Panther Lake (Kitsap/Mason counties):** Open the fourth Saturday in April through October 31.

**(250) Pass Lake (Skagit County):**

(a) Open to fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Catch and release only.

**(251) Percival Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches.

**(252) Perry Creek (Thurston County):**

(a) Open the first Saturday in June through October 31 from the mouth to the falls.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

**(253) Phillips Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(254) Pilchuck Creek (Snohomish County):**

(a) From the mouth to the Highway 9 Bridge:

(i) Open the first Saturday in June through January 31.

(ii) From the first Saturday in June through November 30: Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(b) From the Highway 9 Bridge to Pilchuck Falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(c) From Pilchuck Falls upstream, including all tributaries and their tributaries, and all tributaries to Lake Cavanaugh: Open the Saturday before Memorial Day through October 31.

**(255) Pilchuck River (Snohomish County):**

(a) Open from December 1 through January 31 from the mouth to 500 feet downstream from the Snohomish City diversion dam.

(b) It is unlawful to fish from any floating device.

(c) Trout: Minimum length 14 inches.

(256) **Pine Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(257) **Pine Lake (King County):** Open the fourth Saturday in April through October 31.

(258) **Pine Lake (Mason County):** Open the fourth Saturday in April through October 31.

(259) **Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County):** Closed.

(260) **Plumbago Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from the Sierra Pacific 140 road bridge located 0.5 lineal miles upstream from the South Fork Nooksack River, including all tributaries.

(261) **Pratt River (tributary to Middle Fork Snoqualmie River) (King County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(262) **Pressentin Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from the waterfall located 0.3 miles from the Skagit River, including all tributaries.

(263) **Prices Lake (Mason County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

(264) **Pugh Creek (Snohomish County) (Whitechuck River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(265) **Puyallup River (Pierce County):**

(a) From the mouth to Freeman Road:

(i) Open for game fish and salmon August 10 through December 31.

(ii) Closed August 30 through August 31, September 6 through September 8, September 13 through September 15, September 20 through September 23, September 27 through September 30, October 4 through October 7, and October 11 through October 14.

(iii) Closed within 400 feet of the mouth of Clarks Creek.

(iv) August 10 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

(v) Trout: Minimum length 14 inches.

(vi) Salmon:

(A) In years ending in odd numbers:

(I) Limit 6. No more than 2 adults may be retained. Two pink adults may be retained in addition to the 2 adult limit.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook.

(b) From Freeman Road to the East Main Avenue Bridge:

(i) Open for game fish and salmon August 1 through December 31.

(ii) Closed August 9, August 30 through August 31, September 6 through September 8, September 13 through September 15, September 20 through September 23, and September 27 through September 30.

(iii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) Barbless hooks are required.

(iv) Trout: Minimum length 14 inches.

(v) Salmon:

(A) In years ending in odd numbers:

(I) Limit 6. No more than 2 adults may be retained. In addition to the 2 adults, 2 adult pinks may also be retained.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook.

(c) From the East Main Avenue Bridge to Carbon River:

(i) Open for game fish and salmon August 1 through December 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure is in effect.

(C) Barbless hooks are required.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon:

(A) In years ending in odd numbers:

(I) Limit 6. No more than 2 adults may be retained. In addition to the 2 adults, 2 adult pinks may be retained.

(II) Release wild adult Chinook.

(B) In years ending in even numbers:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook.

(d) From Carbon River upstream:

(i) Open September 1 through January 15.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(266) **Pyramid Creek (King County) upstream of Forest Service Road 7000:** Open the first Saturday in June through October 31.

(267) **Racehorse Creek (Whatcom County) (N.F. Nooksack tributary) above the falls located 0.2 miles above the North Fork Road:** Open the Saturday before Memorial Day through October 31.

(268) **Raging River (King County):**

(a) From the mouth to the Highway 18 Bridge:

(i) Open the first Saturday in June through January 31.

(ii) Trout: Minimum length 14 inches.

(b) From Highway 18 Bridge upstream: Open the first Saturday in June through October 31.

(269) **Rapjohn Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(270) **Rattlesnake Lake (King County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit 2; minimum length 14 inches.



- (271) **Ravensdale Lake (King County):**  
 (a) Open the fourth Saturday in April through October 31.  
 (b) Selective gear rules apply.  
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (d) Trout: Limit 2; minimum length 12 inches.
- (272) **Red Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.
- (273) **Rendsland Creek (Mason County):**  
 (a) Open the first Saturday in June through October 31.  
 (b) Selective gear rules apply.  
 (c) Catch and release only.
- (274) **Riley Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
- (275) **Roaring Creek (Whatcom County):** Open the Saturday before Memorial Day through October 31 upstream from the confluence with Deer Creek, including all tributaries.
- (276) **Robbins Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (277) **Rocky Creek (Mason County):**  
 (a) Open the first Saturday in June through October 31.  
 (b) Selective gear rules apply.  
 (c) Trout: Catch and release only.
- (278) **Roesiger Lake (Snohomish County):** Crappie limit 10; minimum length 9 inches.
- (279) **Rose Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (280) **Ross Lake (Reservoir) (Whatcom County):**  
 (a) Open July 1 through October 31:  
 (b) Selective gear rules apply.  
 (c) Trout, except eastern brook trout: Limit 1; minimum length 16 inches.  
 (d) Eastern brook trout: Limit 5; no minimum length.
- (281) **Ross Lake tributary streams, and their tributaries, except Big Beaver Creek and Ruby Creek (Whatcom County):**  
 (a) From one mile above the mouths to the headwaters: Open July 1 through October 31.  
 (b) Tributaries to Ruby Creek: Open July 1 through October 31.
- (282) **Salmon Creek (Thurston County) (Black River tributary):**  
 (a) Open the first Saturday in June through October 31.  
 (b) Selective gear rules apply.  
 (c) Night closure in effect.  
 (d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (283) **Salmonberry Creek (Kitsap County):**  
 (a) Open the first Saturday in June through October 31.  
 (b) Selective gear rules apply.  
 (c) Trout: Minimum size 14 inches.
- (284) **Samish Lake (Whatcom County):** Cutthroat trout limit 2; minimum length 14 inches.
- (285) **Samish River (Skagit County):**  
 (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.  
 (b) From the mouth to the I-5 Bridge:  
 (i) Open the first Saturday in June through November 30.  
 (ii) From the first Saturday in June through November 30: Trout minimum length 14 inches.  
 (iii) From August 1 through November 30:  
 (A) Night closure in effect.  
 (B) It is unlawful to use anything other than one single-point hook.  
 (iv) From December 1 through December 31:  
 (A) Selective gear rules apply.  
 (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.  
 (v) Salmon:  
 (A) Open August 1 through November 30.  
 (B) Limit 2; anglers may only retain fish hooked inside the mouth.  
 (C) Release wild coho.  
 (c) From the I-5 Bridge to the Hickson Bridge:  
 (i) Closed from the Old Highway 99 Bridge to the WDFW salmon rack.  
 (ii) Closed from the I-5 Bridge to the Old Highway 99 Bridge September 1 through November 30.  
 (iii) Open the first Saturday in June through November 30:  
 (A) Selective gear rules apply.  
 (B) Release all fish except mandatory hatchery steelhead retention.  
 (d) From the Hickson Bridge upstream:  
 (i) Open the first Saturday in June through October 31.  
 (ii) Selective gear rules apply.
- (286) **Sammamish Lake (King County):**  
 (a) Closed to fishing within 100 yards of the mouth of Issaquah Creek August 16 through November 30.  
 (b) Kokanee: Catch and release only.  
 (c) December 1 through June 30: Release all steelhead and rainbow trout over 20 inches in length.
- (287) **Sammamish River (Slough) (King County):** From the 68th Avenue N.E. Bridge to Lake Sammamish:  
 (a) Open from January 1 through August 31.  
 (b) Selective gear rules apply.  
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (d) Trout: Catch and release only.
- (288) **Sauk River (Skagit/Snohomish counties):**  
 (a) Selective gear rules apply.  
 (b) Release all fish except anglers may retain up to 2 hatchery steelhead.  
 (c) From the mouth to the mouth of the White Chuck River:  
 (i) Open the first Saturday in June through January 31.  
 (ii) From the mouth to Darrington Bridge: It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (d) From the mouth of the White Chuck River to the headwaters, including the North Fork and the South Fork upstream to Elliot Creek: Open the first Saturday in June through October 31.  
 (e) In the South Fork upstream from Elliot Creek: Open the first Saturday in June through August 31.

(289) **Sauk, North Fork, (Snohomish County):** Open the Saturday before Memorial Day through October 31 above North Fork falls including all tributaries.

(290) **Sawyer Lake (King County):** Chumming is permissible.

(291) **Scatter Creek (King County) (White River tributary):** Open the first Saturday in June through October 31.

(292) **Scatter Creek (Thurston County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(293) **Schneider Creek (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum size 14 inches.

(294) **Serene Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(295) **Shady Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: It is unlawful to retain more than one trout over 14 inches in length.

(296) **Shannon, Lake (Skagit County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(c) Trout: Minimum length 6 inches and maximum length 18 inches.

(297) **Shelton Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(298) **Sherman Creek (Thurston County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(299) **Sherwood Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(300) **Sherwood Creek Mill Pond (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Trout: Limit 2; minimum length 14 inches.

(301) **Shoe Lake (Mason County):** Open the fourth Saturday in April through October 31.

(302) **Silesia Creek (Chilliwack River tributary) (Whatcom County):** Open the first Saturday in June through October 31.

(303) **Silver Creek (Skagit County) (Samish River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(304) **Silver Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(305) **Silver Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(306) **Silver Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

(307) **Sixteen Lake (Skagit County):** Open the fourth Saturday in April through October 31.

(308) **Skagit River (Skagit/Whatcom counties):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Highway 530 Bridge at Rockport:

(i) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull Trout with a minimum length of 20 inches as part of the trout limit.

(ii) From Highway 530 Bridge in Rockport to Cascade River Road in Marblemount: June 1 through January 31: Catch and release only except mandatory hatchery steelhead retention.

(c) From the mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon):

(i) Open March 1 through January 31.

(ii) March 1 through July 31:

(A) Selective gear rules apply, except anglers fishing for sturgeon must use bait.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iii) Salmon:

(A) Open September 1 through December 31 in years ending in even numbers.

(B) Open August 1 through December 31 in years ending in odd numbers.

(C) Limit 4; only 2 wild coho may be retained.

(D) Release Chinook and chum.

(d) From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek:

(i) Open June 1 through January 31.

(ii) June 1 through November 30:

(A) September 1 through November 30: Anti-snagging rule applies, except anglers fishing for sturgeon must use bait.

(B) Night closure in effect.

(C) June 1 through June 15 and July 16 through July 31:

(I) Selective gear rules apply, except for sturgeon.

(II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iii) Salmon:

(A) Open June 16 through July 15; Limit 3 sockeye only.

(B) Open September 1 through December 31 in years ending in even numbers.

(C) Open August 1 through December 31 in years ending in odd numbers.

(D) Limit 4 salmon; only 2 wild coho may be retained.

(E) Release Chinook and chum.

(e) From Gilligan Creek to The Dalles Bridge at Concrete:

(i) Open June 1 through January 31.

(ii) June 1 through November 30:

(A) September 1 through November 30: Anti-snagging rule applies.

(B) Night closure in effect August 16 through November 30.

- (C) From June 1 through August 15:  
 (I) Selective gear rules apply.  
 (II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.  
 (iii) Salmon:  
 (A) In years ending in even numbers, open September 1 through December 31.  
 (B) In years ending in odd numbers, open August 16 through December 31.  
 (C) Limit 4 salmon; only 2 wild coho may be retained.  
 (D) Release Chinook and chum.  
 (f) From The Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport:  
 (i) Open June 1 through January 31.  
 (ii) June 1 through August 31: Closed between a line projected across the thread of the river 200 feet above the east bank of the Baker River to a line projected across the thread of the river 200 feet below the west bank of the Baker River.  
 (iii) June 1 through November 30:  
 (A) September 1 through November 30: Anti-snagging rule applies.  
 (B) Night closure in effect.  
 (C) June 1 through August 31:  
 (I) Selective gear rules apply.  
 (II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.  
 (iv) Salmon:  
 (A) Open September 1 through December 31.  
 (B) Limit 4 salmon; only 2 wild coho may be retained.  
 (C) Release Chinook and chum.  
 (g) From the Highway 530 Bridge at Rockport to the Cascade River Road (Marblemount Bridge):  
 (i) Open June 1 through January 31: Trout catch and release only, except mandatory hatchery steelhead retention.  
 (ii) June 1 through November 30:  
 (A) June 1 through July 15 and September 1 through November 30: Anti-snagging rule applies.  
 (B) Night closure in effect.  
 (C) July 16 through August 31:  
 (I) Selective gear rules apply.  
 (II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.  
 (iii) Salmon:  
 (A) Open June 1 through July 15:  
 (I) Limit 4 hatchery Chinook only.  
 (II) Only 2 adult hatchery Chinook may be retained as part of the limit.  
 (B) Open September 1 through December 31.  
 (I) Limit 4 salmon; only 2 wild coho may be retained.  
 (II) Release Chinook and chum.  
 (h) From Cascade River Road to the Gorge Powerhouse:  
 (i) Open June 1 through January 31.  
 (ii) Selective gear rules apply.  
 (iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (iv) Release all fish except anglers may retain up to 2 hatchery steelhead.  
 (i) Gorge and Diablo lakes' tributary streams and their tributaries, except Stetattle Creek: Open the first Saturday in June through October 31.

**(309) Skokomish River (Mason County):**

- (a) From the mouth to the city of Tacoma PUD overhead distribution lines: Closed.  
 (b) From the city of Tacoma PUD overhead distribution lines to the Highway 106 Bridge:  
 (i) Open the first Saturday in June through July 13 and October 1 through December 15 for game fish: Catch and release only.  
 (ii) August 1 through November 30:  
 (A) Anti-snagging rule applies.  
 (B) Night closure in effect.  
 (C) It is unlawful to use anything other than single point, barbless hooks.  
 (iii) September 15 through December 15: Terminal gear (hooks, weights, lures, or baits) may not be within 25 feet of tribal gillnets.  
 (iv) Salmon:  
 (A) Open August 1 through September 1:  
 (I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.  
 (II) Release chum and wild Chinook.  
 (B) Open September 15 through December 15:  
 (I) Limit 6; no more than 4 adults may be retained.  
 (II) Release Chinook; release chum through October 15.  
 (c) From the Highway 106 Bridge to the mouth of Purdy Creek:  
 (i) Open the first Saturday in June through July 13 and October 1 through December 15 for game fish: Catch and release only.  
 (ii) July 24 through November 30:  
 (A) Anti-snagging rule applies.  
 (B) Night closure in effect.  
 (C) It is unlawful to use anything other than single point, barbless hooks.  
 (iii) September 15 through December 15: Terminal gear (hooks, weights, lures, or baits) may not be within 25 feet of tribal gillnets.  
 (iv) July 24 through July 31: Bait or lure must be suspended below a float.  
 (v) Salmon:  
 (A) Open July 24 through July 31:  
 (I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.  
 (II) Release chum and wild Chinook.  
 (B) Open August 1 through August 21 on Fridays, Saturdays, and Sundays only:  
 (I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.  
 (II) Release chum and wild Chinook.  
 (C) Open August 22 through September 1:  
 (I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.  
 (II) Release chum and wild Chinook.  
 (D) Open September 15 through December 15:  
 (I) Limit 6; no more than 4 adults may be retained.  
 (II) Release Chinook; release chum through October 15.  
 (d) From the mouth of Purdy Creek to the Highway 101 Bridge:

(i) Open the first Saturday in June through July 13 and October 1 through December 15 for game fish: Catch and release only.

(ii) July 24 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(C) It is unlawful to use anything other than single-point, barbless hooks.

(iii) July 24 through December 15: Terminal gear (hooks, weights, lures, or baits) may not be within 25 feet of tribal gillnets.

(iv) July 24 through September 1: Bait or lures must be suspended below a float.

(v) Salmon:

(A) Open July 24 through September 1:

(I) Limit 2; anglers must keep the first two fish caught provided they are legal to retain.

(II) Release chum and wild Chinook.

(B) Open September 15 through December 15:

(I) Limit 6; no more than 4 adults may be retained.

(II) Release Chinook; release chum through October 15.

(e) From the Highway 101 Bridge upstream to the forks:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

**(310) Skokomish River, North Fork (Mason County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

(d) From the mouth to the lower dam: Open the first Saturday in June through October 31.

(e) Above Lake Cushman, from the mouth to Olympic National Park boundary: Open the first Saturday in June through August 31.

**(311) Skokomish River, South Fork (Mason County):**

(a) From the mouth to the mouth of LeBar Creek:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From the mouth of Rule Creek to the headwaters:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Minimum length 12 inches.

**(312) Skookum Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

**(313) Skookum Creek (Whatcom County):** From the mouth of Arlecho Creek upstream, including Arlecho Creek and all other tributaries: Open the Saturday before Memorial Day through October 31.

**(314) Skookumchuck Reservoir (Thurston County):**

(a) Open the first Saturday in June through October 31.

(b) Trout: Daily limit 2; minimum length 12 inches.

**(315) Skykomish River (Snohomish County):**

(a) From the mouth to the mouth of Wallace River:

(i) Open June 1 through January 31.

(ii) Anti-snagging rule applies and night closure in effect:

(A) August 1 through November 30 from the mouth to Lewis Street Bridge in Monroe; and

(B) June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River.

(iii) November 1 through January 31: It is unlawful to fish from any floating device from the boat ramp below Lewis Street Bridge at Monroe downstream 2,500 feet.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of twenty inches as part of the trout limit.

(v) Salmon:

(A) Open June 1 through July 31: Limit 4 hatchery Chinook; no more than 2 of which may be adults.

(B) For years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 3 coho only.

(C) For years ending in odd numbers:

(I) Open August 16 through December 31 from the mouth to Lewis Street Bridge in Monroe.

(II) Open September 1 through December 31 from the Lewis Street Bridge to Wallace River.

(III) Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From the mouth of the Wallace River to the forks:

(i) Open June 1 through January 31.

(ii) From the Highway 2 Bridge at the Gold Bar/Big Eddy Access to the confluence of the North and South Forks: Also open February 1 through February 15.

(iii) August 1 through November 30: Anti-snagging rule applies and night closure in effect.

(iv) June 1 through February 15: It is unlawful to fish from any floating device in the area 1,500 feet upstream and 1,000 feet downstream of the outlet at Reiter Ponds.

(v) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(vi) Salmon:

(A) Open September 1 through December 31.

(B) For years ending in even numbers: Limit 3 coho only.

(C) For years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

**(316) Skykomish River, North Fork (Snohomish County):**

(a) From the mouth to 1,000 feet downstream of Bear Creek Falls:

(i) Open the first Saturday in June through January 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(b) From Deer Falls (about 1/4 mile upstream of Goblin Creek) upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

**(317) Skykomish River, South Fork (King/Snohomish counties):**

(a) From the mouth to 600 feet downstream from the Sunset Falls fishway:

(i) Open the first Saturday in June through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(b) From Sunset Falls to the source, including all tributaries and their tributaries:

(i) Open the first Saturday in June through November 30.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(iv) December 1 through the last day in February:

(A) All tributaries of this river section are closed.

(B) Open for whitefish only; release all other fish.

**(318) Smith Creek (Whatcom County) (Nooksack River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(319) Snohomish River (Snohomish County):**

(a) From the Burlington-Northern Railroad bridges to Highway 9 Bridge, including all channels, sloughs, and interconnected waterways, but excluding all tributaries:

(i) Sturgeon catch and release is permissible year-round.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies; except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(B) Night closure in effect.

(iii) Gamefish:

(A) Open the first Saturday in June through January 31.

(B) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(iv) Salmon:

(A) For years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 3 coho only.

(B) For years ending in odd numbers:

(I) Open August 1 through December 31.

(II) Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From the Highway 9 Bridge to the confluence of the Skykomish and Snoqualmie rivers (all channels):

(i) Open the first Saturday in June through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(iv) Salmon:

(A) For years ending in even numbers:

(I) Open September 1 through December 31.

(II) Limit 3 coho only.

(B) For years ending in odd numbers:

(I) Open August 16 through December 31.

(II) Limit 3 plus 1 additional pink; release Chinook and chum.

**(320) Snoqualmie River (King County):**

(a) From the mouth to Snoqualmie Falls:

(i) Closed within the Puget Power tunnel at the falls and within 50 feet of any point on Puget Power's lower Plant #2 building (north bank).

(ii) From the first Saturday in June through November 30: Selective gear rules apply.

(iii) September 1 through November 30: Night closure in effect.

(iv) From the mouth to the boat ramp at the Plum access: Open the first Saturday in June through January 31.

(v) From the boat ramp at the Plum access to the falls: Open the first Saturday in June through February 15.

(vi) From November 1 through February 15: It is unlawful to fish from any floating device in the waters from the boat ramp at the Plum access to the mouth of Tokul Creek (about 1/4 mile).

(vii) Trout: Minimum length 14 inches.

(viii) Salmon open September 1 through December 31.

(A) For years ending in even numbers: Limit 3 coho only.

(B) For years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From Snoqualmie Falls upstream, including the North and South Forks:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Open the Saturday before Memorial Day through October 31: Trout minimum length 10 inches.

(iv) Open November 1 through the Friday before Memorial Day: Catch and release only.

(c) Snoqualmie River tributaries upstream of the falls, and the tributaries of the North and South Forks (except Tate, Sunday and Phillapa creeks): Open the Saturday before Memorial Day through October 31. From November 1 through the Friday before Memorial Day: Catch and release only.

(d) In the Snoqualmie River Middle Fork from the mouth to the source, including all tributaries except Pratt and Taylor rivers:

(i) Open year-round.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

**(321) South Prairie Creek (Pierce County):** Open the Saturday before Memorial Day through October 31 from the city of Buckley diversion dam upstream.

**(322) Spada Lake (Reservoir) (Snohomish County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Maximum length 12 inches.

**(323) Spada Lake (Reservoir) tributaries (Snohomish County):** Closed.

(324) **Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County):** Open year-round.

(325) **Squalicum Creek (Whatcom County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(326) **Squalicum Lake (Whatcom County):**

(a) Open for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Trout: Limit 2.

(327) **Squire Creek (Snohomish County) (N.F. Stillaguamish River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

(328) **Steel Lake (King County):** Open the fourth Saturday in April through October 31.

(329) **Stetattle Creek (Whatcom County):** Open the first Saturday in June through October 31 above the mouth of Bucket Creek (approximately 1.5 miles upstream).

(330) **Stevens, Lake (Snohomish County):**

(a) Chumming is permissible.

(b) Kokanee: Limit 10; kokanee do not count toward the trout limit.

(331) **Steves Lake (Mason County):** Open the fourth Saturday in April through October 31.

(332) **Stickney Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(333) **Stillaguamish River (Snohomish County):**

(a) From the mouth to Marine Drive, including all sloughs:

(i) Open year-round.

(ii) Night closure in effect.

(iii) August 1 through November 30: Anti-snagging rule applies; except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iv) Trout: Minimum length 14 inches.

(v) Salmon open September 1 through November 30.

(A) For years ending in even numbers: Limit 2 coho only.

(B) For years ending in odd numbers: Limit 2; release Chinook and chum.

(b) From Marine Drive to the forks:

(i) From the barrier dam (downstream of I-5) downstream 200 feet: Closed.

(ii) Open the first Saturday in June through November 30.

(A) Selective gear rules apply.

(B) Night closure in effect from August 1 through November 30.

(C) Release all fish except anglers may retain up to 2 hatchery steelhead.

(iii) Open December 1 through January 31: ~~((A))~~ Trout(~~(=)~~) minimum length 14 inches.

~~((B))~~ (iv) Salmon open September 1 through November 30(~~(=)~~):

~~(=)~~;

~~(A)~~ For years ending in even numbers: Limit 2 coho only.

~~((H))~~ ~~(B)~~ For years ending in odd numbers: Limit 2; release Chinook and chum.

(334) **Stillaguamish River, North Fork (Snohomish County):**

(a) From the North Fork mouth to the mouth of French Creek:

(i) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) It is unlawful to fish from any floating device upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

(iii) It is unlawful to fish from any floating device equipped with a motor downstream from the Highway 530 Bridge.

(iv) Open the first Saturday in June through January 31:

(A) From the first Saturday in June through November 30:

(I) Fly fishing only.

(II) Release all fish except anglers may retain up to 2 hatchery steelhead.

(B) From December 1 through January 31: Trout minimum length 14 inches.

(b) From the mouth of French Creek to Swede Heaven Bridge:

(i) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through February 15:

(A) From the first Saturday in June through November 30:

(I) Fly fishing only.

(II) Release all fish except anglers may retain up to 2 hatchery steelhead.

(B) December 1 through February 15: Trout minimum length 14 inches.

(c) From Swede Heaven Bridge to the falls approximately one mile upstream of Cascade Creek:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(d) Upstream of the falls, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

(335) **Stillaguamish River, South Fork (Snohomish County):**

(a) From the mouth to 400 feet downstream of the outlet to Granite Falls fishway:

(i) Open the first Saturday in June through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(b) From the Mountain Loop Highway Bridge above Granite Falls upstream to the source:

(i) Open the first Saturday in June through November 30.

(ii) Selective gear rules apply.

- (iii) August 1 through November 30:
  - (A) Anti-snagging rule applies.
  - (B) Night closure in effect.
- (336) **Stimson Creek (Mason County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply
  - (c) Catch and release only.
- (337) **Storm Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
- (338) **Straight Creek (Snohomish County) (Suiattle River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (339) **Suiattle River (Skagit County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Trout: It is permissible to retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of trout limit.
- (340) **Sulphur Creek (Snohomish County) (Suiattle River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (341) **Sultan River (Snohomish County):**
  - (a) From the mouth to a point 400 feet downstream from the diversion dam at river mile 9.7:
    - (i) Open the first Saturday in June through January 31.
    - (ii) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.
  - (b) Upstream of the diversion dam to Culmback Dam: Open the first Saturday in June through October 31.
- (342) **Sumas River (Whatcom County):** Open the first Saturday in June through October 31, including all tributaries except Johnson Creek.
- (343) **Summit Lake (Thurston County):**
  - (a) Open the fourth Saturday in April through October 31.
  - (b) Trout: It is unlawful to retain more than 2 over 14 inches in length, except there are no size restrictions for kokanee.
- (344) **Susan Lake (Thurston County):**
  - (a) Selective gear rules apply.
  - (b) Catch and release only.
- (345) **Swamp Creek (tributary to Sammamish River) (Snohomish/King counties):** Open the first Saturday in June through August 31 for juvenile anglers only.
- (346) **Swan's Mill Pond (Stossel Creek) (King County):** Open the first Saturday in June through October 31.
- (347) **Symington Lake (Kitsap County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Trout: Catch and release only.
- (348) **Tahuya River (Mason County):**
  - (a) From the mouth to the steel bridge approximately 1 mile upstream of North Shore Road Bridge:
    - (i) Open the first Saturday in June through August 15 and October 1 through October 31.
    - (ii) Selective gear rules apply.
  - (ii) October 1 through October 31: Night closure in effect.
  - (iv) Release all gamefish.
- (b) From the steel bridge approximately one mile upstream of North Shore Road Bridge upstream:
  - (i) Open the first Saturday in June through August 15 and October 1 through October 31.
  - (ii) Selective gear rules apply.
  - (iii) October 1 through October 31: Night closure in effect.
  - (iv) Catch and release only.
- (349) **Tanwax Creek (Thurston County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Catch and release only.
- (350) **Tanwax Lake (Pierce County):** Crappie: Limit 10; minimum length 9 inches.
- (351) **Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin:** Open year-round.
- (352) **Taylor River (tributary to the Middle Fork Snoqualmie) (King County):**
  - (a) Open the Saturday before Memorial Day through October 31.
  - (b) Selective gear rules apply.
  - (c) Catch and release only.
- (353) **Tenmile Creek (Whatcom County) (Nooksack River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (354) **Tenas Creek (Skagit County) (Suiattle River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (355) **Tenas Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (356) **Tennant Lake (Whatcom County):** It is unlawful to fish from any floating device from the first Friday in October through January 27.
- (357) **Terrell Creek (Whatcom County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (358) **Terrell, Lake (Whatcom County):** It is unlawful to fish from any floating device from the first Saturday after Labor Day through the following Friday and from October 1 through January 31, except fishing from a floating dock is permissible.
- (359) **Texas Pond (Skagit County):** No limit for eastern brook trout.
- (360) **Thomas Creek (Skagit County) (Samish River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (361) **Thompson Creek (Thurston County) (Skookumchuck River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (362) **Thornton Creek (tributary to Lake Washington) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(363) Thornton Creek (Whatcom County):**

(a) Open the first Saturday in June through October 31.

(b) Release all fish except anglers may retain up to 2 hatchery steelhead and there is no limit on cutthroat trout.

**(364) Thornton Lake, lower (Whatcom County):** Cutthroat trout: No limit.

**(365) Tibbetts Creek (tributary to Lake Sammamish) (King County):** Open the first Saturday in June through August 31 for juvenile anglers only.

**(366) Tiger Lake (Kitsap/Mason counties):** Open the fourth Saturday in April through October 31.

**(367) Toad Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

**(368) Tokul Creek (King County) (Snoqualmie River tributary):**

(a) From the mouth to the Fish Hatchery Road Bridge:

(i) Open December 1 through February 15, except closed to fishing from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rule applies.

(iii) Trout: Minimum length 14 inches.

(b) From Fish Hatchery Road Bridge to the posted cable boundary marker located approximately 400 feet downstream of the hatchery intake:

(i) Open January 15 through February 15, except closed to fishing from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rule applies.

(iii) Trout: Minimum length 14 inches.

(c) From Tokul Road S.E. upstream, including all tributaries and beaver ponds: Open the Saturday before Memorial Day through October 31.

**(369) Tolt River (King County):**

(a) From the mouth to the USGS trolley cable near the confluence of the North and South Forks:

(i) Open the first Saturday in June through January 31: Selective gear rules apply.

(ii) Trout: Minimum length 14 inches.

(b) From the falls upstream, on the North Fork, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(c) On the South Fork, from the dam upstream:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 10 inches.

**(370) Twenty-two Lake Creek (Snohomish County):** Open the Saturday before Memorial Day through October 31 upstream from the falls located approximately at river mile 0.25 upstream.

**(371) Tye River (King County):**

(a) From Foss River to Alpine Falls:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches.

(iv) Open November 1 through the last day in February for whitefish only; release all other fish.

(b) From Alpine falls upstream, and all tributaries to the Tye River, including their tributaries: Open the first Saturday in June through October 31.

**(372) U Lake (Mason County):** Open the fourth Saturday in April through October 31.

**(373) Uncle John Creek (Mason County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

**(374) Union River (Mason County):**

(a) From the mouth to the North Shore Road Bridge:

(i) Open the first Saturday in June through August 15.

(ii) Catch and release only.

(b) From the North Shore Road Bridge to the lower bridge on Old Belfair Highway:

(i) Open the first Saturday in June through August 15.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(c) From the lower bridge on Old Belfair Highway upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

**(375) Vogler Lake (Skagit County):**

(a) Fly fishing only.

(b) Catch and release only.

**(376) Voight Creek (Pierce County):** Open the Saturday before Memorial Day through October 31 from the falls, approximately 4.0 river miles upstream of the mouth and under the power lines, upstream.

**(377) Waddell Creek (Thurston County) (Black River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(378) Wagners Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

**(379) Walker Lake (King County):** Open the fourth Saturday in April through October 31.

**(380) Wallace River (Snohomish County):**

(a) From the mouth to 363rd Ave. S.E./Reece Rd:

(i) Open from the first Saturday in June through February 15.

(ii) From June 1 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) From November 1 through February 15: It is unlawful to fish from any floating device.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(v) Salmon open September 16 through November 30:

(A) In years ending in even numbers: Limit 3 coho only.

(B) In years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(b) From 363rd Avenue S.E./Reece Road to 200 feet upstream of the water intake of the salmon hatchery:

(i) Open September 16 through February 15.

(ii) September 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.



(iii) November 1 through February 15: It is unlawful to fish from any floating device.

(iv) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(v) Salmon open September 16 through November 30:

(A) In years ending in even numbers: Limit 3 coho only.

(B) In years ending in odd numbers: Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(c) From 200 feet upstream of the water intake of the salmon hatchery to Wallace Falls:

(i) Open November 1 through January 31.

(ii) It is unlawful to fish from any floating device.

(iii) Trout: Minimum length 14 inches, except anglers may retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.

(d) From Wallace Falls upstream, including all tributaries and their tributaries: Open the Saturday before Memorial Day through October 31.

(381) **Wapato Lake (Pierce County):** Open to juvenile anglers only.

(382) **Washington Creek (Mason County):** Open the Saturday before Memorial Day through October 31.

(383) **Washington Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open year-round.

(c) It is unlawful to fish from a floating device within 100 yards of either side of the floating bridges.

(d) Chumming is permissible.

(e) Trout:

(i) December 1 through the last day in February: Release steelhead and rainbow trout over 20 inches in length.

(ii) March 1 through June 30:

(A) Minimum length 12 inches.

(B) Release steelhead and rainbow trout over 20 inches in length.

(f) Salmon:

(i) Open September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge.

(ii) Limit 4 coho only.

(384) **Washington Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) East of the Fremont Bridge: Chumming is permissible.

(c) From the west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed.

(d) From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary:

(i) Open year-round for game fish.

(ii) Trout:

(A) Open December 1 through the last day in February: No minimum length.

(B) Open March 1 through June 30: Minimum length 12 inches.

(C) Open July 1 through November 30: No minimum length.

(D) Release steelhead and rainbow trout over 20 inches in length.

(385) **Wauhup Lake (Pierce County):** Landlocked salmon rules apply.

(386) **Whatcom Creek (Whatcom County):**

(a) From the mouth to the markers below the footbridge below Dupont Street in Bellingham:

(i) Open the first Saturday in June through December 31.

(ii) August 1 through December 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(iv) Salmon: Open August 1 through December 30.

(A) Limit 6; anglers may retain up to 2 adult salmon.

(B) Anglers fishing lawfully within 50 yards of the Bellingham Technical College Hatchery Collection Tube and on the hatchery side of the creek that hook and land chum salmon may remove those chum salmon from the water and immediately place them unharmed into the Hatchery Collection Tube.

(b) From the footbridge below Dupont Street in Bellingham to the stone bridge at Whatcom Falls Park:

(i) Open the first Saturday in June through October 31.

(ii) August 1 through October 31:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Trout: Minimum length 14 inches.

(c) From the stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Open the fourth Saturday in April through October 31 for juvenile anglers only. Trout: No minimum length.

(387) **Whatcom, Lake (Whatcom County):**

(a) Open the fourth Saturday in April through October 31, except the waters between the Electric Avenue Bridge and the outlet dam are closed.

(b) Cutthroat trout: Catch and release only.

(388) **Whatcom, Lake, tributaries (Whatcom County):** Closed.

(389) **White (Stuck) River (Pierce County):**

(a) From the mouth to R Street Bridge in Auburn:

(i) Open October 1 through October 31:

(A) Fly fishing only.

(B) Catch and release only.

(ii) Open November 1 through January 15: Trout minimum length 14 inches.

(iii) October 1 through January 15:

(A) Selective gear rules apply.

(B) Night closure in effect.

(b) From R Street Bridge to the Highway 410 Bridge at Buckley:

(i) Open October 1 through October 31, except closed in the Puget Power canal, including the screen bypass channel above the screen at Dingle Basin.

(ii) Selective gear rules apply.

- (iii) Night closure in effect.
- (iv) Trout: Minimum length 14 inches.
- (c) From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) upstream to the source:
  - (i) Open July 1 through October 31.
  - (A) October 1 through October 31: Night closure in effect.
    - (B) Selective gear rules apply.
    - (C) Catch and release only.
  - (ii) Open for whitefish only November 1 through January 31; whitefish gear rules apply.
- (390) **Whitechuck River (Snohomish County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) It is permissible to retain Dolly Varden/Bull trout with a minimum length of 20 inches as part of the trout limit.
- (391) **Wildberry Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (392) **Wildcat Lake (Kitsap County):** Open the fourth Saturday in April through October 31.
- (393) **Wilderness Lake (King County):**
  - (a) Open the fourth Saturday in April through October 31.
  - (b) Landlocked salmon rules apply.
- (394) **Wilkeson Creek (Pierce County) (South Prairie Creek tributary) upstream of confluence with Gale Creek:** Open the first Saturday in June through October 31.
- (395) **Woodard Creek (Thurston County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Trout: Minimum length 14 inches.
- (396) **Wood Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (397) **Woodland Creek (Thurston County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Trout: Minimum length 14 inches.
- (398) **Woods Creek, East Fork (Snohomish County) (Skykomish River tributary):** Open the first Saturday before Memorial Day through October 31 upstream of Old Pipeline Road above Woods Creek Falls, including tributaries and beaver ponds.
- (399) **Wooten Lake (Mason County):** Open the fourth Saturday in April through October 31.
- (400) **Wye Lake (Kitsap County):** Open the fourth Saturday in April through October 31.
- (401) **Youngs Creek (Snohomish County) (Skykomish River tributary) (Elwell Creek tributary, Skykomish River tributary near town of Sultan):** Open the Saturday before Memorial Day through October 31 above Potson Road (299th Avenue S.E. Bridge) including all tributaries and beaver ponds.

AMENDATORY SECTION (Amending WSR 16-06-073, filed 2/26/16, effective 7/1/16)

**WAC 220-310-195 Freshwater exceptions to statewide rules—Eastside.** (1) **Countywide freshwater exceptions to statewide rules:**

- (a) All lake, pond, and reservoir inlets and outlets and irrigation canals, wasteways, and drains in Grant and Adams counties (except Crab Creek, Rocky Ford Creek and Ponds, Columbia Basin Hatchery Creek, Bobcat Creek, Coyote Creek, Hays Creek, Red Rock Creek, Sand Hollow Creek, and Lake Lenore inlet and outlet) are open year-round.
- (b) In Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River) and Enloe Dam (Similkameen River): It is permissible to fish up to the base of all dams.
  - (c) In Ferry, Lincoln, and Stevens counties:
    - (i) Unless otherwise provided in this section, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby, Nancy, and Onion creeks are open the Saturday before Memorial Day through October 31.
    - (ii) Trout: Limit 5, no minimum length.
- (2) **Aeneas Lake (Okanogan County):**
  - (a) Open the fourth Saturday in April through October 31 for fly fishing only.
  - (b) It is unlawful to fish from a floating device equipped with a motor.
  - (c) Trout: Limit one.
- (3) **Ahtanum Creek, including North and Middle Forks (Yakima County):**
  - (a) Selective gear rules apply.
  - (b) Trout minimum length ten inches.
  - (c) In the North Fork, open from the mouth to Grey Rock Trailhead Bridge crossing and upstream from the mouth of Shellneck Creek.
  - (d) In the Middle Fork, open from the mouth to the A2000 Road Spur Road Bridge in NE Section 34 and upstream of the (~~A2000~~) A2800 Road Bridge at Tree Phones Campground.
- (4) **Alta Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (5) **Amber Lake (Spokane County):**
  - (a) Selective gear rules apply.
  - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
  - (c) Open March 1 through November 30.
    - (i) From March 1 through the Friday before fourth Saturday in April, and October 1 through November 30: Catch and release only.
    - (ii) From the fourth Saturday in April through September 30:
      - (A) Trout: Limit two; minimum length fourteen inches.
      - (B) Release rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin.
- (6) **American River (Yakima County):**
  - (a) Selective gear rules apply.
  - (b) From the Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8:
    - (i) Open the first Saturday in June to July 15.
    - (ii) Open September 16 to October 31.
  - (c) From the mouth to the Highway 410 Bridge at river mile 5.4 and upstream of the Mesatchee Creek Trail river crossing at river mile 15.8: Open the first Saturday in June through October 31.

(d) Trout minimum length ten inches in the mainstem only.

(e) American River tributaries, except Union and Kettle creeks: Open.

**(7) Amon Wasteway (Benton County):**

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

**(8) Asotin Creek, mainstem and forks (Asotin County):**

(a) It is unlawful to fish for steelhead.

(b) From SR 129 Bridge upstream to the forks: It is permissible to fish up to the base of Headgate Dam.

(c) Asotin mainstem and the mainstem North Fork from the mouth upstream to the USFS boundary: Selective gear rules apply.

(d) North Fork from the USFS boundary upstream and all other tributaries: Closed.

(e) South Fork and tributaries: Closed.

**(9) B.C. Mill Pond (Stevens County):** Open the fourth Saturday in April through October 31.

**(10) Badger Lake (Spokane County):** Open the fourth Saturday in April through September 30.

**(11) Banks Lake (Grant County):**

(a) Chumming is permissible.

(b) Crappie: Limit 10; minimum size 9 inches.

(c) Perch: Limit twenty-five.

**(12) Bayley Lake (Stevens County):**

(a) Inlet stream: Closed.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Open the fourth Saturday in April through October 31.

(i) From the fourth Saturday in April through July 4: Trout limit one; minimum length 14 inches.

(ii) From July 5 through October 31: Catch and release only.

**(13) Bear Creek (Yakima County) (tributary to South Fork Tieton River):** Open upstream of the Bear Creek Falls, approximately 3/4 mile upstream of USFS Road 1070.

**(14) Bear Lake (Spokane County):** Open to juvenile anglers, licensed adults accompanied by a juvenile, and anglers with a disability who possess a designated harvester companion card only.

**(15) Beaver Lake (Columbia County):**

(a) Open March 1 through October 31.

(b) It is unlawful to fish from any floating device.

**(16) Beaver Lake (Big) (Okanogan County):** Open the fourth Saturday in April through October 31.

**(17) Beaver Lake (Little) (Okanogan County):** Open the fourth Saturday in April through October 31.

**(18) Beda Lake (Grant County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one.

**(19) Beehive (Lake) Reservoir (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) From July 5 through October 31:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

**(20) Bennington Lake (Mill Creek Reservoir) (Walla Walla County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

**(21) Beth Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**(22) Big Four Lake (Columbia County):**

(a) Open March 1 through October 31 for fly fishing only.

(b) It is unlawful to fish from any floating device.

(c) Trout: Limit two.

**(23) Big Meadow Creek (Chelan County):** From the mouth upstream:

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout: Catch and release only.

(ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) Big Meadow Creek tributaries from the mouth of Big Meadow Creek upstream: Open the Saturday before Memorial Day through October 31.

**(24) Big Meadow Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

**(25) Big Tiffany Lake (Okanogan County):**

(a) Eastern brook trout: No limit; eastern brook trout do not count toward the trout limit.

(b) Cutthroat: Limit two.

**(26) Big Twin Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

**(27) Bird Creek (Klickitat County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Trout: Limit 5.

**(28) Blackbird Island Pond (Chelan County):** Open July 1 through September 30 for juvenile anglers only.

**(29) Black Lake (Okanogan County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(30) Black Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(31) **Blockhouse Creek (Klickitat County):** Trout limit five.

(32) **Blue Lake (Columbia County):**

(a) It is unlawful to fish from any floating device.

(b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

(33) **Blue Lake (Grant County):** Open the fourth Saturday in April through September 30.

(34) **Blue Lake (near Sinlahekin) (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(e) Trout: Limit one.

(35) **Blue Lake (near Wannacut Lake) (Okanogan County):**

(a) Open the Fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

(36) **Bobcat Creek and Ponds (Adams County):** Open April 1 through September 30.

(37) **Bonaparte Creek (Okanogan County):** From the falls upstream to river mile 1.0, including all tributaries:

(a) Open the Saturday before Memorial Day through October 31.

(b) Bass: No limit and no size restrictions.

(c) Channel catfish: No limit.

(d) Walleye: No limit and no size restrictions.

(38) **Bonaparte Lake (Okanogan County):**

(a) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(b) Trout: It is unlawful to retain more than one trout over twenty inches in length.

(39) **Boulder Creek and tributaries (Okanogan County):**

(a) From the mouth to the barrier falls at river mile 1.0:

(i) Open the Saturday before Memorial Day through August 15:

(ii) Selective gear rules apply.

(iii) Catch and release only.

(b) From barrier falls at river mile 1.0 upstream, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31:

(ii) Eastern brook trout: Limit 10; eastern brook trout do not count toward the trout limit.

(c) Cutthroat: Limit 2.

(40) **Bowman Creek (Klickitat County):** From Canyon Creek upstream to source: Trout limit 5.

(41) **Box Canyon Creek and tributaries (Kittitas County):** Upstream from the 20 foot waterfall approximately 2 miles upstream of the mouth to the USFS Road #4930

Bridge: Selective gear rules apply. Open the first Saturday in June through October 31.

(42) **Browns Creek (Pend Oreille County):**

(a) Open the Saturday before Memorial Day until October 31.

(b) Fly fishing only.

(43) **Browns Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Trout: It is unlawful to retain more than one trout greater than 11 inches in length.

(44) **Buck Creek and tributaries (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31 from the mouth of Buck Creek upstream.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(45) **Bumping Lake (Reservoir) (Yakima County):**

(a) It is permissible to fish two poles, so long as the angler possesses a valid two-pole endorsement.

(b) Chumming is permissible.

(c) Kokanee: Limit sixteen; kokanee do not count towards the trout limit.

(46) **Bumping River (Yakima County):**

(a) It is permissible to fish up to the base of Bumping Dam.

(b) From the mouth to Bumping Reservoir, including all tributaries except American River:

(i) Selective gear rules apply.

(ii) Trout minimum size ten inches.

(c) From Bumping Lake upstream, including all tributaries except Deep Creek: Open the Saturday before Memorial Day through October 31.

(47) **Burbank Slough (Walla Walla County):** It is unlawful to fish from any floating device in the area east and north of Highway 12, except for the channel east of Highway 12 up to the fish screen at the Number 3 Pumping Station.

(48) **Burke Lake (Grant County):** Open March 1 through July 31.

(49) **Buttermilk Creek (Okanogan County), including all tributaries:**

(a) Open the Saturday before Memorial Day through August 15.

(b) Catch and release only.

(c) Selective gear rules apply.

(50) **Buzzard Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) Trout: Limit one.

(51) **Caldwell Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit two; minimum length twelve inches.

(52) **Caliche Lakes, Upper (Grant County):** Open March 1 through July 31.

(53) **Calispell Creek (Calispell River) (Pend Oreille County):**

(a) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(b) From the mouth to Calispell Lake: Open year-round.

(c) From Calispell Lake upstream to the source:

(i) Selective gear rules apply.

(ii) Open the Saturday before Memorial Day through October 31.

(54) **Calispell Creek tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(55) **Campbell Lake (Okanogan County):**

(a) Open year-round.

(b) April 1 through August 31.

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

(56) **Carl's Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(57) **Cascade Lake (Grant County):** Open March 1 through July 31.

(58) **Cattail Lake (Grant County):** Open April 1 through September 30.

(59) **Cedar Creek (Okanogan County):**

(a) From the mouth to Cedar Falls: Open the Saturday before Memorial Day through August 15.

(i) Selective gear rules apply.

(ii) Catch and release only.

(b) Cedar Creek and all tributaries above Cedar Falls:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(60) **Cedar Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(61) **Cedar Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(62) **Chain Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Release kokanee.

(63) **Chapman Lake (Spokane County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(c) Kokanee: Limit ten; kokanee do not count toward the trout limit.

(64) **Chelan Lake (Chelan County):**

(a) South of a line from Purple Point at Stehekin and Painted Rocks:

(i) Within 400 feet of all tributaries: Closed.

(ii) Trout:

(A) Release wild cutthroat.

(B) Kokanee and lake trout do not count toward the trout limit.

(iii) Kokanee: Limit 10; no minimum size.

(iv) Lake trout: No limit; no minimum size.

(v) Salmon open year-round: Daily limit 1; no minimum size.

(b) North of a line between Purple Point at Stehekin and Painted Rocks:

(i) Lake trout open year-round: No limit.

(ii) Salmon open year-round: Limit 1; minimum length 15 inches.

(iii) From August 1 through March 31:

(A) Trout:

(I) Release wild cutthroat.

(II) Kokanee and lake trout do not count toward the trout limit.

(B) Kokanee: Limit 10.

(65) **Chelan Lake tributaries (Chelan County):**

(a) Open August 1 through September 30 from the mouths upstream one mile, except Stehekin River.

(b) Selective gear rules apply.

(c) Trout: Release wild cutthroat.

(66) **Chelan River (Chelan County):** ~~((+))~~ From the railroad bridge to the Chelan P.U.D. safety barrier below the power house:

~~((+))~~ ~~(a)~~ Open May 15 through August 31.

~~((ii))~~ ~~Barbless hooks are required for salmon and steelhead.~~

~~((iii))~~ ~~(b)~~ July 1 through October 15: Anti-snagging rule and night closure in effect.

~~((+))~~ ~~(c)~~ Trout: Catch and release only.

~~((+))~~ ~~(d)~~ Salmon:

~~(i)~~ Open July 1 through October 15 ~~((+))~~.

~~(ii)~~ Barbless hooks required.

~~(iii)~~ Limit ~~((8))~~ 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

~~((+))~~ ~~(iv)~~ Release sockeye, coho and wild adult Chinook.

(67) **Chewuch River (Okanogan County):**

(a) From the mouth to Eight Mile Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From the mouth to Pasayten Wilderness boundary falls: Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(c) From the Pasayten Wilderness boundary falls upstream, including tributaries: Open the Saturday before Memorial Day through October 31.

**(68) Chikamin Creek and all tributaries (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout are catch and release only.

(ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

**(69) Chiwaukum Creek and all tributaries from Fool Hen Creek upstream, not including Fool Hen Creek (Chelan County):**

(a) Selective gear rules apply.

(b) Open the Saturday before Memorial Day through October 31.

(c) Chiwaukum Creek tributaries from mouth of Chiwaukum Creek to Fool Hen Creek, including Fool Hen Creek: Open the Saturday before Memorial Day through October 31.

**(70) Chiwawa River and all tributaries from Buck Creek upstream, including Buck Creek (Chelan County):**

(a) Selective gear rules apply.

(b) Open the Saturday before Memorial Day through October 31.

(c) Chiwawa River tributaries from the mouth to Buck Creek, except Big Meadow, Buck, Chikamin, Clear, Phelps and Rock creeks: Open the Saturday before Memorial Day through October 31.

**(71) Chopaka Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31 for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Trout: Limit one.

**(72) Chumstick Creek (Chelan County):** From the mouth upstream:

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout, catch and release only.

(ii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) Chumstick Creek tributaries from the mouth of Chumstick Creek upstream: Open the Saturday before Memorial Day through October 31.

**(73) Clear Creek (Chelan County):** Closed.

**(74) Clear Lake (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) From July 5 through October 31:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Catch and release only.

**(75) Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.

**(76) Cle Elum Lake (Reservoir) (Kittitas County):**

(a) Trout: Lake trout, brown trout, and eastern brook trout are not included in the trout limit.

(b) Kokanee: Minimum length 9 inches and maximum length 15 inches.

**(77) Cle Elum River (Kittitas County):**

(a) From the mouth to Cle Elum Dam:

(i) Open year-round.

(ii) Selective gear rules apply.

(iii) Trout: Catch and release only.

(iv) It is permissible to fish up to the base of Cle Elum Dam.

(v) December 1 through January 31: Whitefish gear rules apply.

(b) From above Cle Elum Lake to outlet of Hvas Lake (not including Tucquala Lake):

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Trout minimum size ten inches.

(c) All tributaries to Cle Elum River above Cle Elum Lake to outlet of Hvas Lake not otherwise provided for in this section: Open the Saturday before Memorial Day through October 31.

**(78) Cliff Lake (Grant County):** Open March 1 through July 31.

**(79) Coffee Pot Lake (Lincoln County):**

(a) Open March 1 through September 30.

(b) Selective gear rules apply.

(c) Crappie: Limit ten; minimum length nine inches.

(d) Trout: Limit one; minimum length eighteen inches.

**(80) Columbia Basin Hatchery Creek (Grant County):**

(a) Open April 1 through September 30 from the hatchery outflow to the confluence with Rocky Coulee Wasteway.

(b) Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(c) Trout: Limit 3; no minimum size.

**(81) Columbia Park Pond (Benton County):**

(a) Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(b) All species: Limit 5 fish combined.

**(82) Columbia River tributaries (all independent tributaries in Kittitas County between Wanapum Dam and Chelan County boundary line):**

(a) Selective gear rules apply.

(b) Trout minimum size ten inches.

**(83) Colville River (Stevens County):**

(a) From the mouth to the bridge at town of Valley:

(i) Open year-round.

(ii) Trout:

(A) Limit 5.

(B) From October 1 through November 30, no more than 2 brown trout may be retained.

(iii) Walleye: Limit 16; no size restrictions.

(b) All tributaries to Colville River, from the mouth to the bridge at the town of Valley, open the Saturday before Memorial Day through October 31.

(c) From the bridge at the town of Valley upstream, including tributaries:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(84) **Conconully Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(85) **Conconully Reservoir (Okanogan County):** Open the fourth Saturday in April through October 31.

(86) **Conger Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(87) **Conner Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(88) **Coot Lake (Grant County):** Open April 1 through September 30.

(89) **Corral Creek (Benton County):**

(a) Selective gear rules apply.

(b) Trout minimum size ten inches.

(90) **Cottonwood Creek (Lincoln County):** Open year-round.

(91) **Cottonwood Creek (Walla Walla County):** Closed.

(92) **Cougar Lake (Pasayten Wilderness) (Okanogan County):**

(a) Selective gear rules apply.

(b) It is permissible to fish two poles so long as the angler possesses a two-pole endorsement.

(93) **Cougar Lake (near Winthrop) (Okanogan County):**

(a) Open year-round.

(b) Selective gear rules apply.

(c) From April 1 through August 31:

(i) Catch and release only.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(94) **Coyote Creek and Ponds (Adams County):** Open April 1 through September 30.

(95) **Crab Creek (Adams/Grant/Lincoln counties):**

(a) From the mouth to Morgan Lake Road in Section 36: Open April 1 through September 30.

(b) From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed.

(c) From the confluence of the Moses Lake outlets to Sand Dune Rd. (including all tributaries):

(i) Open year-round.

(ii) For minimum size and limits see Potholes Reservoir Rules (Eastside Lakes).

(iii) All species from March 1 through May 31: Only one single-point hook 3/4 inch or less measured from point to shank may be used.

(d) From the fountain buoy and shoreline markers or 150' downstream of the Alder Street fill to Grant County Rd. 7 (including all tributaries except Columbia Basin Hatchery Creek):

(i) Open year-round.

(ii) For minimum size and limits see Moses Lake Rules (Eastside Lakes).

(iii) All species from March 10 through May 31: Only one single-point hook 3/4 inch or less measured from point to shank may be used.

(e) Above Grant County Rd. 7 (including all tributaries, except Goose Creek in the city of Wilbur): Open year-round.

(96) **Crawfish Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(97) **Crescent Lake (Pend Oreille County):** Open the Fourth Saturday in April through October 31.

(98) **Crystal Lake (Grant County):** Open March 1 through July 31.

(99) **Cup Lake (Grant County):** Open March 1 through July 31.

(100) **Curl Lake (Columbia County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

(101) **Dalton Lake (Franklin County):** It is unlawful to retain more than 2 trout over 13 inches in length.

(102) **Davis Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(103) **Davis Lake (Okanogan County):**

(a) Open year-round.

(b) April 1 through August 31:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

(104) **Davis Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(105) **Dayton Pond (Columbia County):**

(a) Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

(106) **Deadman Lake (Adams County):** Open April 1 through September 30.

(107) **Deep Creek (tributary to Bumping Lake) (Yakima County):** Upstream from the waterfall approximately 1/3 mile above the second bridge crossing on USFS Road 1808 upstream: Open the Saturday before Memorial Day through October 31.

(108) **Deep Lake (Grant County):** Open the fourth Saturday in April through September 30.

(109) **Deep Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(110) **Deer Lake (Columbia County):**

(a) Open March 1 through October 31.

(b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

(111) **Deer (Deer Springs) Lake (Lincoln County):** Open the fourth Saturday in April through September 30.

(112) **Deer Lake (Stevens County):**

(a) Open March 1 through October 31.

(b) Trout: It is unlawful to retain more than two trout over thirty inches in length.

(113) **Diamond Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(114) **Dog Lake (Yakima County):** It is unlawful to retain more than 1 trout over 14 inches in length.

(115) **Domerie Creek (Kittitas County):**

(a) Selective gear rules apply.

(b) Trout minimum size ten inches.

(116) **Downs Lake (Lincoln/Spokane counties):**

(a) Open March 1 through September 30.

(b) Crappie: Limit ten; minimum length nine inches.

(117) **Dry Falls Lake (Grant County):**

(a) Open April 1 through November 30.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

(118) **Dune Lake (Grant County):**

(a) Selective gear rules apply.

(b) Trout: Limit one.

(119) **Dusty Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

(120) **Early Winters Creek (Okanogan County):** From the mouth upstream; including all tributaries except Cedar Creek:

(a) Open the Saturday before Memorial Day through August 15.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

(121) **East Little Walla Walla River (Walla Walla County):** Closed.

(122) **Eightmile Lake (Chelan County):** It is unlawful to retain more than two mackinaw as part of the trout limit.

(123) **Elbow Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(124) **Ell Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

(125) **Ellen Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) Release all fish, except anglers may retain up to five rainbow trout.

(126) **Eloika Lake (Spokane County):** Crappie limit ten; minimum length nine inches.

(127) **Lake Entiat (Col.R.) tributaries (Chelan/Douglas County):** Open the Saturday before Memorial Day through October 31 from Rocky Reach Dam to Wells Dam,

except the Entiat River, Chelan River and Chelan Hatchery Creek.

(128) **Entiat River (Chelan County):**

(a) From mouth (railroad bridge) to the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery): Salmon open July 25 through September 30.

(i) ~~((Minimum length 12 inches.))~~ Selective gear rules apply.

(ii) Night closure in effect.

(iii) Limit 2 adult hatchery Chinook salmon.

~~((iii) Selective gear rules apply.~~

~~(iv) Night closure in effect.))~~ (iv) Release wild adult Chinook.

(b) From mouth (railroad bridge) to Entiat Falls: Whitefish open December 1 through March 31; Whitefish gear rules apply.

(c) Entiat River tributaries from the mouth to Entiat Falls, except the Mad River and Roaring Creek: Open the Saturday before Memorial Day through October 31.

(d) Entiat River and all tributaries above Entiat Falls:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Trout:

(A) Limit 5; it is unlawful to retain more than one trout greater than 12 inches in length.

(B) Eastern brook trout: Limit 10. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(129) **Ephrata Lake (Grant County):** Closed.

(130) **Empire Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(131) **Esquatzel Coulee (Franklin County):** Open year-round.

(132) **Esquatzel Coulee, West Branch (Franklin County):** Open year-round.

(133) **Fan Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(134) **Ferry Lake (Ferry County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(135) **Fio Rito Lakes (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(136) **Fish Lake (Chelan County):**

(a) Perch: Limit 25.

(b) Trout: It is unlawful to retain more than 2 trout over 15 inches in length.

(137) **Fish Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(138) **Fish Lake (Okanogan County):** Open the fourth Saturday in April through October 31.



- (139) **Fish Lake (Spokane County):**  
 (a) Open the fourth Saturday in April through September 30.  
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (140) **Fishhook Pond (Walla Walla County):**  
 (a) Open March 1 through October 31.  
 (b) It is unlawful to fish from a floating device.  
 (c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.
- (141) **Fishtrap Lake (Lincoln/Spokane counties):**  
 Open the fourth Saturday in April through September 30.
- (142) **Forde Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- (143) **Fourth of July Lake (Adams/Lincoln counties):**  
 (a) Open the first Friday after Thanksgiving through March 31.  
 (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (c) Trout: It is unlawful to retain more than two trout over fourteen inches in length.
- (144) **Frater Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (145) **Frenchman Hills Lake (Grant County):** Open February 1 through September 30.
- (146) **Gadwall Lake (Grant County):** Open April 1 through September 30.
- (147) **Garfield Juvenile Pond (Whitman County):**  
 Open to juvenile anglers only.
- (148) **Gillette Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- (149) **Goat Creek (Okanogan County):** From the mouth upstream including all tributaries:  
 (a) Open the Saturday before Memorial Day through August 15.  
 (b) Selective gear rules apply.  
 (c) Catch and release only.
- (150) **Golf Course Pond (Asotin County):** It is unlawful to retain more than 2 trout over 13 inches in length.
- (151) **Goose Creek (Lincoln County), within the city limits of Wilbur:** Open year-round to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.
- (152) **Goose Lake, Lower (Grant County):**  
 (a) Bluegill: It is unlawful to retain more than five fish over six inches in length.  
 (b) Crappie: Limit ten; minimum length nine inches.
- (153) **Grande Ronde River (Asotin County):**  
 (a) General river rules:  
 (i) For all portions of the Grande Ronde River and its tributaries that are open to game fish angling:  
 (A) Bass: No limit.  
 (B) Channel catfish: No limit.  
 (C) Walleye: No limit and no size restrictions.  
 (ii) From September 15 through March 15: It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (b) Rules by river section:  
 (i) From the mouth to County Road Bridge, about 2.5 miles upstream:  
 (A) Open year-round for game fish other than trout.  
 (B) September 1 through May 31: Selective gear rules apply.  
 (C) Trout:  
 (I) Minimum length ((8)) 10 inches(~~maximum length 20 inches~~).  
 (II) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.  
 (III) From January 1 through April 15: Mandatory hatchery steelhead retention; daily limit 2, except anglers may retain up to 3 hatchery steelhead.  
 (IV) (~~Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~) From April 16 through December 31: Maximum length 20 inches; steelhead catch and release only.  
 (ii) From County Road Bridge upstream to the Oregon state line and all tributaries, except Wenaha River tributaries:  
 (A) Open the first Saturday in June through October 31:  
 (I) Trout: No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.  
 (II) Anglers may retain up to 3 hatchery steelhead.  
 (B) From the first Saturday in June through August 31: Selective gear rules apply.  
 (C) From September 1 through April 15: It is unlawful to use anything other than barbless hooks.  
 (D) Open November 1 through April 15, except all tributaries are closed.  
 (E) Release all fish except anglers may retain up to 15 whitefish and 3 hatchery steelhead.  
 (F) From January 1 through April 15 mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (154) **Granite Creek and tributaries (Pend Oreille County):** Closed.
- (155) **Green Lake (Upper) (Okanogan County):**  
 (a) Open year-round.  
 (b) March 1 through November 30:  
 (i) Selective gear rules apply.  
 (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (iii) Catch and release only.
- (156) **Green Lake (Lower) (Okanogan County):**  
 (a) Open year-round.  
 (b) March 1 through November 30:  
 (i) Selective gear rules apply.  
 (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (iii) Catch and release only.
- (157) **Grimes Lake (Douglas County):**  
 (a) Open June 1 through August 31:  
 (b) Selective gear rules apply.  
 (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.  
 (d) Trout: Limit one.
- (158) **Halfmoon Lake (Adams County):** Open April 1 through September 30.
- (159) **Halfmoon Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(160) Hampton Lakes, Lower and Upper (Grant County):**

(a) Open April 1 through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(161) Harris Lake (Grant County):**

(a) Selective gear rules apply.

(b) Trout: Limit one.

**(162) Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County) and tributaries:**

(a) From the mouth to Bridge 4830 on county road (about 1 1/2 miles): Closed.

(b) From Bridge 4830 upstream: Selective gear rules apply.

**(163) Hatch Lake (Stevens County):**

(a) Open the first Friday after Thanksgiving through March 31.

(b) Release all fish, except up to five rainbow trout may be retained.

**(164) Hawk Creek and tributaries (Lincoln County) upstream of the Falls at Hawk Creek Campground: Open year-round.**

(165) **Hays Creek and Ponds (Adams County):** Open April 1 through September 30.

(166) **Headgate Pond (Asotin County):** Open the fourth Saturday in April through October 31 to juvenile anglers, seniors, and anglers with a disability who possess a designated harvester companion card only.

(167) **Hen Lake (Grant County):** Open April 1 through September 30.

(168) **Heritage Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(169) **Hog Canyon Creek (Spokane County):** Open year-round from the Hog Canyon Dam to Scroggie Road.

**(170) Hog Canyon Lake (Spokane County):**

(a) Open the first Friday after Thanksgiving through March 31.

(b) Trout: It is unlawful to retain more than two trout over fourteen inches in length.

**(171) Homestead Lake (Grant County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one.

**(172) Horseshoe Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Kokanee: Limit ten; kokanee do not count toward the trout limit.

(173) **Horsethief Lake (Klickitat County):** Open the fourth Saturday in April through October 31.

(174) **Hourglass Lake (Grant County):** Open April 1 through September 30.

(175) **Huff Lake (Pend Oreille County):** Closed.

**(176) Hutchinson Lake (Adams County):**

(a) Open April 1 through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(177) **I-82 Ponds, 1 through 7 (Yakima County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(178) Icicle River and all tributaries (Creek) (Chelan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) From the mouth to 500 feet below Leavenworth National Fish Hatchery:

(i) Open for hatchery Chinook salmon only.

(ii) Open May 15 to July 31; night closure in effect.

(iii) Minimum length 12 inches.

(iv) Limit 2; it is unlawful to retain more than 2 hatchery Chinook.

(c) From ~~((the Leavenworth National Fish Hatchery rack upstream to))~~ shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation District footbridge (approximately 750 feet upstream of the "Snow Lakes Trailhead" parking lot):

(i) Trout:

(A) Open the Saturday before Memorial Day through October 31; selective gear rules apply.

(B) Trout: Eastern brook trout: Daily limit 16. Eastern brook trout do not count toward the trout limit. However, ~~once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.~~

(ii) Salmon:

(A) Open for hatchery Chinook only.

(B) Open May 15 to July 31; night closure in effect.

(C) Minimum length 12 inches.

(D) Limit 2; it is unlawful to retain more than 2 hatchery Chinook.

(iii) Other gamefish:

(A) Open the Saturday before Memorial Day through October 31.

(B) Selective gear rules apply.

(d) From the Icicle Irrigation Peshastin District footbridge upstream to Leland Creek, and all tributaries including Leland Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) ~~((It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

~~((iv)))~~ Trout: Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

~~((b)))~~ (e) From Leland Creek upstream, ~~((not))~~ including all tributaries except Leland Creek: Open the Saturday before Memorial Day through October 31.

**(179) Indian Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10. Once an angler has retained 2 trout other than eastern brook trout, the entire trout

limit has been taken and the angler must cease fishing for trout.

(180) **Indian Creek (Yakima County):** Upstream of the waterfall approximately 6 miles upstream from the mouth:

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout:

(i) No limit and no length restrictions.

(ii) Eastern brook trout do not count toward the trout limit.

(181) **Ingalls Creek and all tributaries upstream of the Alpine Lakes Wilderness boundary (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Ingalls Creek tributaries from the mouth of Ingalls Creek to the Alpine Lakes Wilderness boundary: Open the Saturday before Memorial Day through October 31.

(182) **Jameson Lake (Douglas County):** Open the fourth Saturday in April through July 4 and October 1 through October 31.

(183) **Jasmine Creek (Okanogan County):** Open year-round to juvenile anglers only.

(184) **Jefferson Park Pond (Walla Walla County):**

(a) Open to juvenile fishers only.

(b) It is unlawful to retain more than 2 trout over 13 inches in length.

(185) **Jolanda, Lake (Chelan County):** Closed.

(186) **Jump-Off Joe Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(187) **Kachess Lake (Reservoir) (Kittitas County):**

(a) Chumming is permissible.

(b) Kokanee limit ten; kokanee do not count toward the trout limit.

(c) Trout limit 2; minimum length 12 inches.

(188) **Kachess River (Kittitas County):**

(a) From the mouth to Kachess Dam:

(i) It is permissible to fish up to the base of Kachess Dam.

(ii) Selective gear rules apply.

(iii) Trout minimum size ten inches.

(b) Kachess Lake tributaries, except Box Canyon Creek: Open.

(c) Upstream of impassable 50 to 60 foot fall about 1/2 mile upstream of Mineral Creek: Open.

(189) **Kalispell Creek and tributaries (Pend Oreille County):**

(a) Open the last Saturday in April through October 31.

(b) Selective gear rules apply.

(190) **Keechelus Lake (Reservoir) (Kittitas County):**

(a) Chumming is permissible.

(b) Trout limit 2; minimum length 12 inches.

(c) Kokanee limit 10; kokanee do not count toward the trout limit.

(191) **Keechelus Lake tributaries, except Gold Creek:** Open the Saturday before Memorial Day through October 31.

(192) **Kettle River (Stevens County):**

(a) The tributaries from the mouth to Barstow Bridge: Open from the Saturday before Memorial Day through October 31.

(b) From Barstow Bridge upstream:

(i) Open the Saturday before Memorial Day until October 31.

(ii) Selective gear rules apply, except for juvenile anglers, from the Canadian border upstream to Highway 21 Bridge at Curlew.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Minimum length 12 inches.

(v) Open November 1 through May 31 for whitefish only. Whitefish gear rules apply.

(c) Tributaries to Kettle River, from Barstow Bridge upstream: Open from the Saturday before Memorial Day through October 31.

(193) **Kings Lake and tributaries (Pend Oreille County):** Closed.

(194) **Kiwanis Pond (Kittitas County):** Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(195) **Klickitat River (Klickitat County):**

(a) From the mouth (Burlington Northern Railroad Bridge) to Fisher Hill Bridge:

(i) Game fish open April 1 through January 31.

(A) Release all fish except hatchery steelhead from April 1 through May 31 and December 1 through January 31.

(B) June 1 through January 31: Anglers may retain up to 3 hatchery steelhead.

(C) Bass: No limit and no size restriction.

(D) Channel catfish: No limit.

(E) Walleye: No limit and no size restriction.

(ii) Barbless hooks are required for salmon and steelhead, except from September 1 through December 31.

(iii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iv) Anti-snagging rule in effect and night closure applies April 1 through May 31 and August 1 through January 31. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(v) Salmon and steelhead: Open April 1 through May 31 on Sundays, Mondays, Wednesdays and Saturdays only:

(A) Limit 2; no more than 2 hatchery steelhead, or 2 salmon, or one of each, may be retained.

(B) Release wild Chinook.

(vi) Salmon: Open June 1 through January 31.

(A) June 1 through July 31: Limit 6 fish; no more than 2 adults may be retained. Release wild Chinook.

(B) August 1 through January 31: Limit 6 fish, no more than 3 may be adults (~~Chinook~~), of which only 2 may be coho.

(b) From Fisher Hill Bridge to the boundary markers above Klickitat Salmon Hatchery, the following waters are closed: From Fishery Hill Bridge to 400 feet above #5 fishway, all tributaries except Bird, Blockhouse, Bowman, Spring, Outlet creeks and the Little Klickitat River, and the waters from the boundary markers above Klickitat Salmon Hatchery to the boundary markers below the hatchery.

(c) From 400 feet above #5 fishway to the boundary markers below Klickitat Salmon Hatchery:

(i) Barbless hooks are required for salmon and steelhead.

- (ii) Game fish open June 1 through November 30:
- (A) Daily limit 3 trout of which only 2 may be other than hatchery steelhead.
- (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (C) Trout minimum length twelve inches.
- (iii) Whitefish open December 1 through March 31: Whitefish gear rules apply.
- (iv) Salmon open June 1 through November 30:
- (A) June 1 through July 31:
  - (I) Limit 6 fish; no more than 2 adults may be retained.
  - (II) Release wild Chinook.
- (B) From August 1 through November 30: Limit 6 fish; no more than 3 (~~adult Chinook~~) may be (~~retained~~) adults, of which only 2 may be coho.
- (d) From the boundary markers above Klickitat Salmon Hatchery to the Yakama Indian Reservation boundary:
  - (i) Game fish open June 1 through November 30:
    - (A) Daily limit 3 trout of which no more than 2 may be other than hatchery steelhead.
    - (B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
    - (C) Trout minimum length 12 inches.
  - (ii) Whitefish open December 1 through March 31: Whitefish gear rules apply.
  - (iii) Barbless hooks are required for salmon and steelhead.
- (196) **Lake Creek (Okanogan County):**
  - (a) From the mouth to Black Lake: Closed.
  - (b) From Black Lake to Three Prong Creek: Closed.
- (197) **Latah (Hangman) Creek (Spokane County):** From the mouth upstream to Idaho state line: Open year-round.
- (198) **Latah (Hangman) Creek Tributaries (Spokane County) including all tributaries within this system:** Open the Saturday before Memorial Day through October 31 from the mouths upstream.
- (199) **Le Clerc Creek and tributaries (Pend Oreille County):**
  - (a) Open the Saturday before Memorial Day through October 31.
  - (b) Eastern brook trout: Limit 10. Once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.
- (200) **Ledbetter Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (201) **Ledking Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (202) **Leech Lake (Yakima County):**
  - (a) Open for fly fishing only.
  - (b) It is unlawful to fish from a floating device equipped with a motor.
  - (c) Trout: It is unlawful to retain more than one trout over 14 inches in length.
- (203) **Lemna Lake (Grant County):** Open April 1 through September 30.
- (204) **Lenice Lake (Grant County):**
  - (a) Open March 1 through November 30.
  - (b) Selective gear rules apply.

- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Trout: Limit one.
- (205) **Lenore Lake (Grant County):**
  - (a) The waters within a 200 yard radius of the trash rack leading to the irrigation pumping station (on the south end of the lake) and the area approximately 100 yards beyond the mouth of inlet stream to State Highway 17: Closed.
  - (b) Selective gear rules apply.
  - (c) It is unlawful to fish from a floating device with an internal combustion motor.
  - (d) Open from March 1 through November 30:
    - (i) From March 1 through May 31: Catch and release only.
    - (ii) June 1 through November 30: Trout limit one.
- (206) **Leo Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (207) **Liberty Lake (Spokane County):** Open March 1 through October 31.
- (208) **Lilly Lake (Chelan County):**
  - (a) Open the fourth Saturday in April through October 31.
    - (b) July 5 through October 31:
      - (i) Selective gear rules apply.
      - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
    - (ii) Catch and release only.
- (209) **Lions Park Pond (Walla Walla County):**
  - (a) Open to juvenile anglers only.
  - (b) It is unlawful to retain more than 2 trout over 13 inches in length.
- (210) **Little Klickitat River (Klickitat County):**
  - (a) Within Goldendale city limits:
    - (i) Open the fourth Saturday in April through October 31.
    - (ii) Open the fourth Saturday in April through May 31 to juvenile and senior fishers only.
    - (iii) Trout: Limit five; no minimum length.
  - (b) All other waters including tributaries: Open first Saturday in June through October 31.
- (211) **Little Lost Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- (212) **Little Pend Oreille River (Stevens County):**
  - (a) Open the Saturday before Memorial Day through October 31.
    - (b) From the Little Pend Oreille wildlife refuge boundary approximately one mile downstream from the refuge headquarters office, to Crystal Falls:
      - (i) Selective gear rules apply.
      - (ii) Release all fish except anglers may retain up to 5 eastern brook trout.
    - (c) All tributaries to the Little Pend Oreille River are open the Saturday before Memorial Day through October 31.
- (213) **Little Spokane River (Spokane County):**
  - (a) Open year-round from the mouth to the SR 291 Bridge.
    - (b) From the SR 291 Bridge upstream to the West Branch:
      - (i) Open the fourth Saturday in April through October 31.

(ii) Open December 1 through March 31 for whitefish only; whitefish gear rules apply; limit 15 whitefish; no minimum size.

(c) From the West Branch upstream:

(i) Closed from the inlet of Chain Lake upstream one-quarter mile to the railroad crossing culvert.

(ii) Open the Saturday before Memorial Day through October 31.

(iii) Kokanee: It is unlawful to retain kokanee taken upstream from the bridge at Fridegar Road, including Chain Lake.

(d) Unless otherwise provided in this section, all tributaries to the Little Spokane River are open the Saturday before Memorial Day through October 31.

**(214) Little Twin Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

**(215) Little Twin Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**(216) Little Wenatchee River (Chelan County):**

(a) From the falls below USFS Rd. 6700 Bridge upstream: Open the Saturday before Memorial Day through October 31.

(b) Little Wenatchee tributaries from the mouth upstream, except Rainy Creek: Open the Saturday before Memorial Day through October 31.

**(217) Long Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31

(b) Fly fishing only.

(c) It is unlawful to use flies containing lead.

(d) It is unlawful to fish from a floating device equipped with a motor.

**(218) Long Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**(219) Long Lake (Spokane County):** Landlocked salmon rules apply.

**(220) Loon Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) Kokanee: Limit ten; kokanee do not count toward the trout limit.

(c) Trout (except kokanee): Limit five, except it is unlawful to retain more than two trout over twenty inches in length.

**(221) Lost Lake (Kittitas County):** It is unlawful to retain more than one trout over 14 inches in length.

**(222) Lost Lake (Okanogan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

**(223) Lost River (Okanogan County):**

(a) From the mouth to the mouth of Monument Creek: Closed.

(b) Lost River and all tributaries from the mouth of Monument Creek to the outlet of Cougar Lake, including Monument Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(iv) Trout: Minimum length 14 inches; it is permissible to retain Dolly Varden/Bull Trout with a minimum length of 14 inches as part of the trout limit.

**(224) Lucky Duck Pond (Stevens County):** Open to juvenile anglers only.

**(225) Mad River and all tributaries from mouth to Jimmy Creek, including Jimmy Creek (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout, catch and release only.

(ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) Mad River and all tributaries from Jimmy Creek upstream, not including Jimmy Creek: Open the Saturday before Memorial Day through October 31.

**(226) Marshall Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(227) Martha Lake (Grant County):** Open March 1 through July 31.

**(228) Mattoon Lake (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(229) McCabe Pond (Kittitas County):**

(a) It is unlawful to fish from any floating device equipped with a motor.

(b) Five fish limit for all game fish species combined.

**(230) McDowell Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31 for fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Catch and release only.

**(231) McManaman Lake (Adams County):** Open April 1 through September 30.

**(232) Medical Lake (Spokane County):**

(a) Open March 1 through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Trout: Limit two; minimum length fourteen inches.

**(233) Medical Lake, West (Spokane County):** Open the fourth Saturday in April through September 30.

**(234) Mercer Creek (Kittitas County):**

(a) Open to juvenile anglers only within the Ellensburg city limits.

(b) Trout ten inch minimum length.

(c) Selective gear rules apply.

**(235) Merritt Lake (Chelan County):**

(a) Trout limit sixteen, except eastern brook trout. Eastern brook trout do not count towards the trout limit.

(b) Eastern brook trout: No minimum size and no limit.

**(236) Merry Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

**(237) Methow River (Okanogan County):**

(a) From County Road 1535 (Burma Road) Bridge to Gold Creek:

(i) Open the Saturday before Memorial Day through September 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(b) From Gold Creek to Foghorn Dam:

(i) Open the Saturday before Memorial Day through September 30.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(c) Methow River tributaries from Gold Creek to Foghorn Dam; except Twisp River and Chewuch River:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout:

(A) Catch and release rainbow trout.

(B) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) From Foghorn Dam to Weeman Bridge:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout:

(A) Catch and release only for rainbow trout.

(B) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(e) Methow River tributaries from Weeman Bridge to the falls above Brush Creek; excluding Lost River, Goat Creek, and Early Winters Creek.

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(f) Methow River and tributaries above the falls above Brush Creek: Open the Saturday before Memorial Day through October 31.

(g) From Gold Creek to the falls above Brush Creek:

(i) Open December 1 through March 31 for whitefish only.

(ii) Whitefish gear rules apply.

(h) Methow River tributaries not otherwise provided for in this section:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(238) Mill Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10.

(c) Once an angler has retained 2 trout other than eastern brook trout, the entire trout limit has been taken.

**(239) Mill Creek (Walla Walla County):**

(a) From the mouth to Bennington Dam, including tributaries: Closed waters.

(b) From Bennington Dam upstream: All tributaries: Closed waters.

(c) Selective gear rules apply.

(d) Release steelhead.

(240) **Mill Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(241) **Mineral Creek (tributary to upper Kachess River) (Kittitas County):** Statewide rules apply upstream of the Wilderness Boundary.

**(242) Molson Lake (Okanogan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Trout: Limit 2.

(243) **Monument Creek (Okanogan County), including tributaries:** Selective gear rules apply.

(244) **Morgan Lake (Adams County):** Open April 1 through September 30.

**(245) Moses Lake (Grant County):**

(a) Bluegill: Limit five; minimum length eight inches.

(b) Crappie: Limit ten; minimum length nine inches.

(c) Yellow perch: Limit 25.

**(246) Mud Lake (Yakima County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one.

(247) **Mudgett Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**(248) Muskegon Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit two.

**(249) Myron Lake (Yakima County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit one.

**(250) Myrtle Lake (Chelan County):** Eastern brook trout no minimum size and no limit.

**(251) Mystic Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(252) Naches River (Yakima/Kittitas counties):**

(a) From the mouth to Little Naches River:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Trout:

(A) Minimum length twelve inches, maximum length twenty inches.

(B) Release trout from the confluence with Tieton River to the confluence of the Little Naches River and Bumping River (origin of Naches River).

(b) From the mouth to the Tieton River:

(i) December 1 through January 31.

(ii) Only whitefish may be retained;

(iii) Whitefish gear rules apply.

**(253) Naches River tributaries except Bumping River, Tieton River and Rattlesnake Creek:**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

**(254) Naneum Creek and tributaries (Kittitas County):**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

**(255) Naneum Pond (Kittitas County):** Open to juvenile anglers only.

**(256) Napeequa River and all tributaries from Twin Lakes Creek upstream (Chelan County):** Open.

**(257) Nason Creek (Chelan County):**

(a) From Smith Brook to Stevens Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(b) Nason Creek and all tributaries from Stevens Creek upstream, including Stevens Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(c) Nason Creek tributaries from mouth of Nason Creek to Smith Brook, including Smith Brook, except the Mill Creek drainage:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Eastern brook trout: Limit 16. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

**(258) Negro Creek (Whitman County):** Open the fourth Saturday in April through July 15.

**(259) Nile Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(260) No Name Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(261) North Elton Pond (Yakima County):**

(a) Open the first Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Limit two.

**(262) North Fork Teanaway River tributaries from mouth to Beverly Creek, including Beverly Creek:**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

**(263) North Potholes Reserve Ponds (Grant County):**

(a) Open February 1 through the day before waterfowl season begins.

(b) It is unlawful to fish from any floating device, except it is permissible to fish using float tubes.

**(264) Nunnally Lake (Grant County):**

(a) The outlet stream of Nunnally Lake is closed.

(b) Open March 1 through November 30:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Trout: Limit one.

**(265) Okanogan River (Okanogan County):**

(a) Within the mainstem or tributaries open for game fish angling:

(i) It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.

(ii) Bass: No limit and no size restrictions.

(iii) Channel catfish: No limit.

(iv) Walleye: No limit and no size restrictions.

(b) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

(i) Open year-round.

(ii) July 1 through October 15: Anti-snagging rule applies and night closure in effect.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) It is permissible to fish two poles from July 1 through ~~((October 15))~~ August 31 so long as the angler possesses a two-pole endorsement.

(C) Limit ~~((8))~~ 4; no more than 2 adult hatchery Chinook ~~((and no more than 4 sockeye))~~ may be retained.

(D) Release sockeye, coho and wild adult Chinook.

(c) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

(i) Open year-round.

(ii) July 1 through September 15: Anti-snagging rule applies and night closure in effect.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open July 1 through September 15.

(B) Limit ((8) 4; no more than 2 adult hatchery Chinook ~~((and no more than 4 sockeye))~~) may be retained.

(C) Release sockeye, coho and wild adult Chinook.

~~((D) It is permissible to fish two poles from July 1 through October 15 so long as the angler possesses a two-pole endorsement.))~~

(d) From the highway bridge at Malott upstream:

(i) From Zosel Dam downstream to the first Highway 97 Bridge downstream of the dam: Closed.

(ii) Open the Saturday before Memorial Day through September 15.

(iii) July 1 through September 15: Anti-snagging rule applies and night closure in effect.

(iv) Trout: Catch and release only.

(v) Salmon:

(A) Open July 1 through September 15.

(B) Limit ((8) 4; no more than 2 adult hatchery Chinook ~~((and no more than 4 sockeye))~~) may be retained.

(C) Release sockeye, coho and wild adult Chinook.

(e) All Okanogan River tributaries, except Salmon Creek, Jasmine Creek, Bonaparte Creek, and the Similkameen River:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Trout: Catch and release trout.

(266) **Outlet Creek (Klickitat County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Trout: Limit 5.

(267) **Palouse River (Whitman County):**

(a) Open year-round from the mouth to the base of Palouse Falls.

(b) Bass: No limit.

(c) Channel catfish: No limit.

(d) Trout: Open June 16 through March 31 only.

(i) From June 16 through August 31:

(A) Limit 6; minimum length 10 inches.

(B) No minimum size for trout with clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(C) Anglers may retain up to 3 hatchery steelhead. Mandatory steelhead retention. No catch and release of hatchery steelhead.

(D) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(ii) From September 1 through March 31:

(A) Limit 6; minimum length 10 inches.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(C) Anglers may retain up to 3 hatchery steelhead. Mandatory steelhead retention. No catch and release of hatchery steelhead.

(D) It is unlawful to fish for steelhead using anything other than barbless hooks.

(e) Walleye: No limit.

(268) **Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek:** Open year-round.

(269) **Pampa Pond (Whitman County):**

(a) Open March 1 through September 30.

(b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than two over 13 inches in length.

(270) **Para-Juvenile Lake (Adams/Grant counties):** Open April 1 through September 30 to juvenile anglers only.

(271) **Park Lake (Grant County):** Open the fourth Saturday in April through September 30.

(272) **Parker Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(273) **Pataha Creek (Garfield County):**

(a) Bass: No limit.

(b) Channel catfish: No limit.

(c) Walleye: No limit.

(d) Within the city limits of Pomeroy: Open to juvenile anglers only.

(e) From the city limits of Pomeroy upstream:

(i) Selective gear rules apply.

(ii) Trout:

(A) Eastern brook trout: Limit 10.

(B) Once an angler has retained 2 trout other than Eastern brook trout, the entire trout limit has been taken.

(274) **Pearrygin Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(275) **Pend Oreille River (Pend Oreille County):**

(a) In the mainstem:

(i) Open year-round.

(ii) All sloughs within the boundaries of the Kalispel Reservation, except Calispell Slough: Closed.

(iii) Two pole fishing is permissible so long as the angler possesses a two-pole endorsement.

(b) Pend Oreille River tributaries are open the Saturday before Memorial Day through October 31, unless otherwise provided for in this section.

(276) **Perch Lake (Grant County):** Open the fourth Saturday in April through September 30.

(277) **Peshastin Creek and all tributaries from Ruby Creek upstream, not including Ruby Creek (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout, catch and release only.

(ii) Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern



brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

(d) Peshastin Creek tributaries from the mouth of Peshastin Creek to Ruby Creek (including Ruby Creek), except Ingalls Creek: Open the Saturday before Memorial Day through October 31.

**(278) Petit Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(279) **Phalon Lake (Stevens County):** Closed.

**(280) Phelps Creek and all tributaries from the mouth to the barrier falls (mile 1) (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) From the barrier falls (mile 1) upstream, including all tributaries: Open the Saturday before Memorial Day through October 31.

**(281) Phillips Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**(282) Pierre Lake (Stevens County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

**(283) Pillar Lake (Grant County):** Open April 1 through September 30.

**(284) Ping Pond (Grant County):**

(a) Open the third Saturday in April through Labor Day to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(b) Limit 5 game fish; no minimum size restrictions.

**(285) Pit Lake (Douglas County):** Open to juvenile anglers only.

**(286) Poacher Lake (Grant County):** Open April 1 through September 30.

**(287) Potholes Reservoir (Grant County):**

(a) Crappie: Minimum length nine inches.

(b) Crappie and bluegill: Combined limit of twenty-five fish.

(c) Perch: Limit twenty-five fish.

**(288) Potter's Pond (Stevens County):** Open the fourth Saturday in April through October 31.

**(289) Powerline Lake (Franklin County):** Trout limit 2.

**(290) Priest Lake tributaries (Pend Oreille County):** Open the Saturday before Memorial Day through October 31, including Upper Priest Lake tributaries, except as otherwise provided in this section.

**(291) Priest River tributaries (Pend Oreille County):** Open the Saturday before Memorial Day through October 31.

**(292) Quail Lake (Adams County):**

(a) Open for fly fishing only.

(b) It is unlawful to fish from any floating device equipped with a motor.

(c) Catch and release only.

**(293) Quarry Pond (Walla Walla County):**

(a) It is unlawful to fish from any floating device.

(b) It is unlawful to retain more than 2 trout over 13 inches in length.

**(294) Quincy Lake (Grant County):** Open March 1 through July 31.

**(295) Rainbow Lake (Columbia County):**

(a) Open March 1 through October 31.

(b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

**(296) Rainy Creek (Chelan County):** From the mouth of Rainy Creek upstream:

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

**(297) Rat Lake (Okanogan County):**

(a) Open year-round.

(b) From April 1 to November 30:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

**(298) Rattlesnake Creek (Yakima County):**

(a) Selective gear rules apply.

(b) Catch and release only for all species in the main-stem.

**(299) Rattlesnake Creek tributaries:**

(a) Selective gear rules apply.

(b) Trout minimum size 10 inches.

**(300) Red Rock Creek (Grant County):** Open April 1 through September 30.

**(301) Reflection Pond (Okanogan County):** Open the fourth Saturday in April through October 31.

**(302) Renner Lake (Ferry County):** Open the fourth Saturday in April through October 31.

**(303) Rigley Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit two, minimum length twelve inches.

**(304) Rimrock Lake (Reservoir) (Yakima County):**  
(a) It is permissible to fish using two poles, so long as the angler possesses a valid two-pole endorsement.

(b) Chumming is permissible.

(c) Kokanee: Limit sixteen; kokanee do not count toward the trout limit.

**(305) Roaring Creek (Entiat River Tributary) and all tributaries (Chelan County):** From the mouth of Roaring Creek upstream:

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Rainbow trout are catch and release only.

(ii) The eastern brook trout limit of 5 fish does not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing for trout.

**(306) Rock Creek (Adams/Whitman counties):**

(a) From the mouth to Endicott West Road: Open year-round.

(b) From Endicott West Road to the bridge on Jordan Knott Road at Revere:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(c) From the bridge on Jordan Knott Road upstream: Open year-round.

**(307) Rock Creek (Chelan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

**(308) Rock Creek (Klickitat County):**

(a) From Army Corps of Engineers Park upstream to the source: Closed waters.

(b) Open year-round from the mouth to the Army Corps of Engineers Park. Limits, size restrictions and gear restrictions are the same as those in the adjacent portion of the Columbia River.

**(309) Rock Island Pool (Col.R.) tributaries (Chelan/Douglas County):** Open the Saturday before Memorial Day through October 31 from Rock Island Dam to Rocky Reach Dam, except the Wenatchee River.

**(310) Rocky Ford Creek and Ponds (Grant County):**

(a) Open to fly fishing and fishing from the bank only (no wading).

(b) Catch and release only.

**(311) Rocky Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) From June 1 through October 31:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

**(312) Roosevelt Lake (Grant/Ferry/Lincoln/Stevens counties):**

(a) The following areas are closed:

(i) From the Little Dalles power line crossing upstream approximately one mile to the marked rock point, and from Northport power line crossing upstream to the most upstream point of Steamboat Rock, from March 1 through the Friday before Memorial Day.

(ii) The Kettle arm upstream to Barstow Bridge from April 1 through the Friday before Memorial Day.

(b) Carp: It is unlawful to fish for carp with bow and arrow.

(c) From Grand Coulee Dam to the Northport Bridge:

(i) Kokanee: Limit 6; no more than 2 with intact adipose fins may be retained.

~~((e))~~ (ii) Salmon: Landlocked salmon rules apply.

~~((e))~~ (iii) Trout (except kokanee): Limit 5; it is unlawful to retain ~~((more than 2 over 20 inches in length))~~ trout with an intact adipose fin.

~~((f))~~ (iv) Walleye: No size restrictions; limit 16 fish.

(d) From Northport Bridge to the Canadian Border:

(i) Kokanee: Limit 6; no more than 2 with intact adipose fins may be retained.

(ii) Salmon: Landlocked salmon rules apply.

(iii) Trout (except kokanee): Limit 2; it is unlawful to retain trout less than 18 inches in length.

(iv) Walleye: No size restrictions; limit 16 fish.

**(313) Round Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**(314) Rowland Lake, North (Klickitat County):** Open the fourth Saturday in April through the last day in February, except closed the Monday before Thanksgiving Day through Thanksgiving Day.

**(315) Royal Lake (Adams County):** Closed.

**(316) Royal Slough (including Marsh Unit IV impoundments) (Adams County):** Closed.

**(317) Ruby Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken and the angler must cease fishing for trout.

**(318) Rufus Woods Lake (Douglas/Okanogan counties):**

(a) From Grand Coulee Dam downstream to State Route 155 Bridge: Closed.

(b) Trout: Limit 2; only uninjured trout caught using artificial lures or flies with single-point barbless hooks may be released.

(c) Tributaries to Rufus Woods Lake: Open the Saturday before Memorial Day through October 31.

**(319) Sacheen Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(320) Saddle Mountain Lake (Grant County):** Closed.

**(321) Sago Lake (Grant County):** Open April 1 through September 30.

**(322) Salmon Creek, mainstem (Okanogan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Catch and release only.

**(323) Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(324) San Poil River (Ferry County):**

(a) From the western shoreline at the mouth of the San Poil Arm (as marked by a regulatory buoy) directly eastward across the San Poil Arm to the eastern shoreline of the San Poil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek:

(i) Open April 1 through January 31 for kokanee, small-mouth bass, trout, and walleye:

(A) Kokanee: Limit 2 fish in addition to the trout limit; no minimum size requirement.

(B) Smallmouth bass: Limit 10; it is unlawful to retain more than one over 14 inches.

(C) Trout:

(I) Limit 5 (~~(; it is unlawful to retain more than 2 trout over 20 inches)~~).

(II) Release rainbow trout with adipose fin((s)) intact.

(D) Walleye: Limit 16; no size restrictions.

(ii) Open year-round for other game fish, salmon, and carp:

(A) Carp: It is unlawful to fish for carp with bow and arrow.

(B) Salmon: Landlocked salmon rules apply.

(b) From the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek to approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys:

(i) It is unlawful to fish for or retain trout.

(ii) Open April 1 through January 31 for walleye and smallmouth bass:

(A) Smallmouth bass: Limit 10; it is unlawful to retain more than one over 14 inches.

(B) Walleye: Limit 16; no size restrictions.

(iii) Open year-round for other game fish, salmon, and carp:

(A) Carp: It is unlawful to fish for carp with bow and arrow.

(B) Salmon: Landlocked salmon rules apply.

(c) The waters from approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys, to all waters north of the regulatory buoy line at or above 1,310 feet mean sea level elevation are managed under the regulatory authority of the Colville Confederated Tribe of Indians.

(d) From above the Colville Confederated Tribe of Indians Reservation northern boundary, upstream to the headwaters, including tributaries: Open the Saturday before Memorial day through October 31.

(325) **Sand Hollow Creek (Grant County) including all tributaries:** Open April 1 through September 30 from State Route 243 upstream.

(326) **Sarg Hubbard Park Pond (Reflection Pond) (Yakima County):** Open to juvenile anglers and anglers with a disability who possess a designated harvester companion card only.

(327) **Schaefer Lake (Chelan County):**

(a) Trout limit sixteen, except eastern brook trout. Eastern brook trout do not count towards the trout limit.

(b) Eastern brook trout: No minimum size and no limit.

(328) **Scootney Reservoir (Franklin County):** Walleye limit 8; minimum size 12 inches. It is unlawful to retain more than one walleye over 22 inches in length.

(329) **Sedge Lake (Grant County):**

(a) Selective gear rules apply.

(b) Trout: Limit one.

(330) **Sherman Creek (Ferry County) and all tributaries:**

(a) From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed.

(b) Open the Saturday before Memorial Day through October 31.

(331) **Sherry Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(332) **Shiner Lake (Adams County):**

(a) Open April 1 through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(333) **Shoveler Lake (Grant County):** Open April 1 through September 30.

(334) **Sidley Lake (Okanogan County):** Trout limit two.

(335) **Silver Lake (Spokane County):** Crappie limit ten; minimum length nine inches.

(336) **Silver Nail Lake (Okanogan County):** Open to juvenile anglers only.

(337) **Similkameen River (Okanogan County):**

(a) Barbless hooks required for salmon and steelhead.

(b) From the mouth to Enloe Dam:

(i) Closed from Enloe Dam downstream 400 feet.

(ii) July 1 through September 15:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(iii) Salmon:

(A) Open July 1 through September 15.

(B) Limit ((8)) 4; no more than 2 adult hatchery Chinook (~~(and no more than 6 sockeye)~~) may be retained.

(C) Release sockeye, coho and wild adult Chinook.

(iv) Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(c) From Enloe Dam to the Canadian border, including tributaries, except Sinlahekin Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(338) **Sinlahekin Creek (Okanogan County):**

(a) From Palmer Lake to Cecile Creek Bridge:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Open December 1 through March 31 for whitefish only; whitefish gear rules apply.

(b) From Cecile Creek Bridge upstream, including all tributaries: Open the Saturday before Memorial Day through October 31.

(339) **Skookum Lake, North (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(340) **Skookum Lake, South (Pend Oreille County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(341) **Slate Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

**(342) Snake River:**

(a) Open year-round, except the following areas are closed:

- (i) Within 400 feet of the base of any dam;
- (ii) Within a 400 foot radius around the fish ladder entrance at Lyons Ferry Hatchery;
- (iii) Within a 200 foot radius upstream of the fish ladder exit above Lower Granite Dam; and
- (iv) Within an area 1,200 feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and 100 feet out into the river from the south river bank.

(b) Bass: No limit and no size restrictions.

(c) Channel catfish: No limit.

(d) Trout:

(i) Open June 16 through March 31.

(ii) April 1 through June 15: Catch and release only.

(iii) Limit 6; minimum length 10 inches.

(iv) It is unlawful to retain more than 3 hatchery steelhead.

(v) Barbless hooks required for steelhead.

(e) Walleye: No limit and no size restrictions.

**(343) Snipe Lake (Grant County):** Open April 1 through September 30.

**(344) Snipes Creek (Benton County):**

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

**(345) South Salmo River (Pend Oreille County), including tributaries:** Open the Saturday before Memorial Day through October 31.

**(346) Spearfish Lake (Klickitat County):** Open the fourth Saturday in April through last day in February.

**(347) Spectacle Lake (Okanogan County):** Open April 1 through September 30.

**(348) Spokane River (Spokane County):**

(a) From SR 25 Bridge upstream to 400 feet below Little Falls Dam:

(i) It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(ii) Open year-round:

(A) Kokanee:

(I) Limit 6; no minimum size.

(II) It is unlawful to retain more than 2 with intact adipose fins.

(III) Kokanee does not count towards the trout limit.

(B) Salmon: Landlocked salmon rules apply.

(C) Trout:

(I) Limit 5(~~;- no minimum size~~).

(II) (~~It is unlawful to retain more than 2 trout over 20 inches in length.~~) Release rainbow trout with adipose fin intact.

(D) Walleye: Limit 16; no size restrictions.

(b) From the Little Falls Dam to the upstream boundary of the Plese Flats Day Use Area (Riverside State Park), except Long Lake (Nine Mile Dam to Long Lake Dam): Open year-round.

(i) Landlocked salmon rules apply.

(ii) Trout: Limit 5; no more than 2 trout over 20 inches in length may be retained.

(c) From the upstream boundary at Plese Flats Day Use Area (Riverside State Park) upstream to the Monroe Street Dam:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Open June 1 through March 15:

(A) Salmon: Landlocked salmon rules apply.

(B) Trout:

(I) Limit one; minimum length 8 inches.

(II) Release wild trout (only rainbow trout with a clipped adipose fin and a healed scar at the site of the clipped fin may be retained).

(d) From Monroe Street Dam upstream to Upriver Dam:

(i) Open year-round.

(ii) Landlocked salmon rules apply.

(e) From Upriver Dam upstream to the Idaho/Washington state line:

(i) Selective gear rules apply.

(ii) Open the first Saturday in June through March 15.

(iii) Catch and release only.

(f) Unless otherwise provided in this section, all tributaries to the Spokane River (Washington waters only) are open the Saturday before Memorial Day through October 31.

**(349) Sprague Lake (Adams/Lincoln counties):**

(a) The following waters are closed:

(i) Cow Creek;

(ii) The marsh at the southwest end of the lake from the lakeside edge of the reeds to Danekas Road;

(iii) The small bay at the southeast end of the lake; and

(iv) Those waters within 50 feet of Harper Island.

(b) All other waters southwest of the southwest tip of Harper Island: Closed from October 1 through April 30.

(c) Crappie: Minimum length nine inches.

(d) Crappie and bluegill: Combined limit of twenty-five fish.

(e) Trout: Limit 5; it is unlawful to retain more than two trout over twenty inches in length.

**(350) Spring Creek (Benton County):**

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

**(351) Spring Creek (Klickitat County):**

(a) Goldendale Hatchery: Open the Saturday before Memorial Day through October 31. Trout: Limit 5.

(b) All other waters: Open the first Saturday in June through October 31.

**(352) Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) July 5 through October 31: Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

**(353) Spring Lake (Columbia County):**

(a) It is unlawful to fish from any floating device.

(b) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

**(354) Spring Lakes (Grant County):** Open March 1 through July 31.

(355) **Stan Coffin Lake (Grant County):** Bass: Catch and release only.

(356) **Starvation Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) From June 1 through October 31:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Catch and release only.

(357) **Stehekin River (Chelan County):**

(a) From the mouth to Agnes Creek:

(i) Selective gear rules apply.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Open July 1 through October 31: Trout minimum length fifteen inches; release cutthroat.

(iv) Open March 1 through June 30: Catch and release only.

(b) From Agnes Creek upstream: Open the Saturday before Memorial Day through October 31.

(358) **Stratford/Brook Lake (Grant County):** Open February 1 through September 30.

(359) **Sullivan Creek (Pend Oreille County):**

(a) From the mouth to Mill Pond: Open the Saturday before Memorial Day through October 31.

(i) Barbless hooks are required.

(ii) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(iii) Release cutthroat.

(b) From Mill Pond upstream and tributaries:

(i) Selective gear rules apply.

(ii) Release cutthroat.

(iii) Open the Saturday before Memorial Day through October 31.

(iv) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken.

(360) **Sullivan Lake (Pend Oreille County):**

(a) Kokanee: Limit ten; kokanee do not count toward the trout limit.

(b) Trout (except kokanee): Limit two trout.

(361) **Sullivan Lake tributaries (Pend Oreille County), except as otherwise provided in this section:** Open the Saturday before Memorial Day through October 31.

(362) **Summit Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(363) **Swan Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(364) **Tacoma Creek and tributaries (Pend Oreille County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: Limit 10; once an angler retains 2 trout other than eastern brook trout, the entire trout limit has been taken and the angler must cease fishing for trout.

(365) **Teal Lakes (North and South) (Grant/Adams counties):** Open April 1 through September 30.

(366) **Teanaway River (Kittitas County), and tributaries except North Fork:**

(a) Selective gear rules apply.

(b) Trout minimum length ten inches.

(367) **Teanaway River, North Fork (Kittitas County):** From the mouth to Beverly Creek:

(a) Selective gear rules apply.

(b) Trout: Catch and release only.

(368) **Tern Lake (Grant County):**

(a) Selective gear rules apply.

(b) Trout: Limit one.

(369) **Thomas Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(370) **Tieton River (Yakima County):**

(a) From the mouth to Tieton Dam, including all tributaries:

(i) It is permissible to fish up to the base of Tieton (Rimrock) Dam.

(ii) Selective gear rules apply.

(iii) Trout minimum length ten inches.

(b) Tributaries upstream of Tieton Dam except North Fork Tieton River, South Fork Tieton River and Indian Creek: Open the Saturday before Memorial Day through October 31.

(371) **Tieton River, North Fork (Yakima County):**

(a) Mainstem including that portion of the river that flows through the dry lakebed of Rimrock Reservoir, upstream to the USFS Road 740 Bridge below Clear Lake Dam:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(b) Mainstem upstream of Clear Lake:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(c) All North Fork Tieton tributaries, including Clear Creek: Open the Saturday before Memorial Day through October 31.

(372) **Tieton River, South Fork (Yakima County):** From the bridge on USFS Road 1070 upstream and all tributaries, except Bear Creek and Spruce Creek: Open the Saturday before Memorial Day through October 31.

(373) **Touchet River (Columbia/Walla Walla counties):**

(a) General river rules: For all portions of the Touchet River and its tributaries that are open to game fish angling:

(i) Bass: No limit.

(ii) Channel catfish: No limit.

(iii) Walleye: No limit and no size restrictions.

(iv) Release wild steelhead.

(b) Rules by river section:

(i) From the mouth to the confluence of Coppei Creek:

(A) Open the first Saturday in June through October 31:

(I) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(II) Steelhead: Open September 1 through October 31; limit 3. It is unlawful to use anything other than barbless hooks when fishing for steelhead.

(B) Open November 1 through April 15:

(I) Release all fish except hatchery steelhead and brown trout.

(II) Limit 3 hatchery steelhead and brown trout combined.

(III) It is unlawful to use anything other than barbless hooks.

(ii) From the mouth of Coppei Creek to the confluence of North and South Forks and all tributaries:

(A) Open the first Saturday in June through October 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(C) Steelhead:

(I) Open September 1 through October 31; mandatory hatchery steelhead retention, limit 3. No catch and release of hatchery steelhead. Release wild steelhead. It is unlawful to use anything other than barbless hooks when fishing for steelhead.

(II) Open November 1 through April 15. Release all fish except hatchery steelhead and brown trout. Limit 3 hatchery steelhead and brown trout combined. It is unlawful to use anything other than barbless hooks when fishing for steelhead.

(iii) From the confluence of the North and South Forks upstream:

(A) Selective gear rules apply.

(B) Release steelhead.

(iv) From mouth of North Fork, upstream to Spangler Creek:

(A) Open the first Saturday in June through October 31.

(B) Trout: No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(v) North Fork upstream of Spangler Creek:

(A) Open the first Saturday in June through August 31.

(B) Trout: No minimum size for trout with a clipped adipose fin.

(vi) Wolf Fork from the mouth to Coates Creek:

(A) Open the first Saturday in June through October 31.

(B) No minimum size for trout with a clipped adipose fin.

(vii) Wolf Fork above Coates Creek:

(A) Open the first Saturday in June through August 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(viii) Robinson Fork:

(A) Open the first Saturday in June through August 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(ix) South Fork, from the mouth to Griffin Fork:

(A) Open the first Saturday in June through October 31.

(B) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(x) South Fork, upstream from Griffin Creek: Open the first Saturday in June through August 31.

(374) **Trapper Lake (Chelan County):** Trout: Limit two.

(375) **Trout Lake (Ferry County):** Open the fourth Saturday in April through October 31.

(376) **Trout Lake (tributary to Big White Salmon River) (Klickitat County) including all tributaries:** Open the first Saturday in June through October 31.

(377) **Tucannon River (Columbia County):**

(a) Unless otherwise provided in this section, all tributaries are closed, except Pataha Creek.

(b) Mouth upstream to Turner Road Bridge at Marengo:

(i) First Saturday in June through October 31.

(A) Bass: No limit and no size restrictions.

(B) Channel catfish: No limit.

(C) Trout:

(I) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(II) Steelhead: Limit 2 hatchery fish.

(III) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(D) Walleye: No limit and no size restrictions.

(ii) November 1 through last day in February.

(A) Release all fish, except anglers may retain up to 2 hatchery steelhead and 15 whitefish.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(C) Barbless hooks required.

(c) Turner Road Bridge at Marengo to Tucannon Hatchery Bridge:

(i) First Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restrictions.

(iv) Trout:

(A) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(B) Steelhead: Limit 2 hatchery fish.

(C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(v) Channel catfish: No limit.

(vi) Walleye: No limit and no size restrictions.

(d) Tucannon Hatchery Bridge to 500 feet above intake for Rainbow Lake: Closed to fishing.

(e) 500 feet above intake for Rainbow Lake to Cow Camp Bridge:

(i) First Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) Bass: No limit and no size restrictions.

(iv) Channel catfish: No limit.

(v) Trout:

(A) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(B) Release steelhead.

(vi) Walleye: No limit and no size restrictions.

(f) Cow Camp Bridge upstream: Closed to fishing.

(378) **Tucquala Lake (Kittitas County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Eastern brook trout: No limit; eastern brook trout do not count towards the trout limit.

**(379) Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River:** Closed.

**(380) Twisp River (Okanogan County):** Mouth to War Creek:

(a) Open the Saturday before Memorial Day through August 15.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Catch and release only.

(e) Twisp River Tributaries from the mouth to War Creek; including Buttermilk Creek and Little Bridge Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(f) Twisp River tributaries from War Creek to the North Fork Twisp River, including War Creek, South Fork Twisp River, North Creek to Twisp River Road Bridge, and North Fork Twisp River to the falls:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules apply.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Catch and release only.

(g) North Fork Twisp River above the falls and North Creek above Twisp River Road Bridge are open from the Saturday before Memorial Day to October 31.

**(381) Union Creek (Yakima County):** Open upstream of the falls (approximately 1/4 mile from the mouth).

**(382) Upper Wheeler Reservoir (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Catch and release only.

**(383) Vanes Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(384) Vic Meyers (Rainbow) Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(385) Waitts Lake (Stevens County):** Open the fourth Saturday in April through last day in February.

**(386) Walla Walla River (Walla Walla County):**

(a) General rules in the mainstem:

(i) Bass: No limit and no size restrictions.

(ii) Channel catfish: No limit.

(iii) Walleye: No limit and no size restrictions.

(b) Rules by river section:

(i) From the mouth to McDonald Road Bridge:

(A) Open year-round, except all tributaries other than the Touchet River are closed.

(B) Trout:

(I) Open first Saturday in June through March 31.

(II) No minimum size for trout with a clipped adipose fin and healed scar at the location of the adipose fin.

(III) It is unlawful to fish for steelhead using anything other than barbless hooks.

(IV) Mandatory hatchery steelhead retention, limit 3. No catch and release of hatchery steelhead.

(ii) From the McDonald Road Bridge upstream to the Oregon state line:

(A) Open from the first Saturday in June through October 31.

(B) Selective gear rules apply.

(C) No minimum size for trout with a clipped adipose fin as evidenced by a healed scar at the location of the adipose fin.

(D) Limit 3 hatchery steelhead.

(E) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(F) From November 1 through March 31:

(I) Selective gear rules apply.

(II) Release all fish, except anglers may retain up to 3 hatchery steelhead.

(III) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

**(387) Wanapum Pool (Columbia River) tributaries (Chelan/Douglas County):** Open the Saturday before Memorial Day through October 31 from Wanapum Dam to Rock Island Dam.

**(388) Wannacut Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**(389) Wapato Lake (Chelan County):**

(a) Trout: Open the fourth Saturday in April through October 31.

(b) All other game fish: Open the fourth Saturday in April through October 31.

**(390) Ward Lake (Ferry County):** Open the fourth Saturday in April through October 31.

**(391) Warden Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(392) Warden Lake, South (Grant County):** Open the fourth Saturday in April through September 30.

**(393) Washburn Island Pond (Okanogan County):**

(a) Open April 1 through September 30.

(b) It is unlawful to fish with use of an internal combustion motor. An internal combustion motor may be attached to a floating device, but must not be used.

**(394) Washburn Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: Limit one.

(c) Selective gear rules apply.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(395) Watson Lake (Columbia County):**

(a) Open March 1 through October 31.

(b) It is unlawful to fish from any floating device.

(c) Trout: It is unlawful to retain more than 2 trout over 13 inches in length.

**(396) Wenaha River tributaries within Washington:**

- (a) Open the first Saturday in June through August 31.
- (b) Selective gear rules apply.
- (c) Trout: Release steelhead.

**(397) Wenas Creek (Yakima County):**

(a) From the mouth to Wenas Lake, including all tributaries:

- (i) Selective gear rules apply.
- (ii) Trout: Minimum size ten inches.
- (b) Upstream of Wenas Lake, including all tributaries: Open the Saturday before Memorial Day to October 31.

**(398) Wenatchee Lake (Chelan County):**

(a) Open year-round; selective gear rules apply.

(b) ~~((Salmon:~~

~~(i) Open July 18 through August 31.~~

~~(ii) Minimum length 12 inches.~~

~~(iii) Limit 6 sockeye salmon only.~~

~~(iv)) Release bull trout, steelhead trout, sockeye, and Chinook salmon.~~

~~((v) Night closure in effect.~~

~~(vi) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.))~~

(c) Trout: Limit two; minimum length twelve inches.

**(399) Wenatchee River (Chelan County):** ~~((+))~~ From the mouth to 400 feet below Dryden Dam and from the mouth of Peshastin Creek (above Dryden Dam) to the Icicle River Road Bridge:

~~((+)) (a) Salmon open August 1 through September 30.~~

~~((+)) (b) Selective gear rules apply.~~

~~((+)) (c) Night closure in effect.~~

~~((+)) (d) Limit 4; it is unlawful to retain more than 2 adult hatchery Chinook.~~

~~((+)) (e) Release wild adult Chinook salmon.~~

~~((+)) (f) Minimum length 12 inches.~~

~~((b) From the mouth of Peshastin Creek (above Dryden Dam) to the Icicle River Road Bridge:~~

~~(i) Salmon open August 1 through September 30.~~

~~(ii) Limit 4; it is unlawful to retain more than 2 adult hatchery Chinook.~~

~~(iii) Release wild adult Chinook salmon.~~

~~(iv) Selective gear rules apply and night closure in effect.~~

~~(v) Minimum length 12 inches.))~~

**(400) West Evans Pond (Asotin County):** It is unlawful to retain more than 2 trout over 13 inches in length.

**(401) White River (Chelan County), from the mouth upstream to White River Falls upstream:** Open the Saturday before Memorial Day through October 31, including White River tributaries from the mouth of the White River upstream, except Panther Creek and the Napeequa River.

**(402) White Salmon River (Klickitat/Skamania counties):**

(a) From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse:

(i) It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.

(ii) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(iii) Open year-round.

(iv) August 1 through December 31: Anti-snagging rule applies. When the anti-snagging rule is in effect, fish must be hooked inside the mouth to be retained.

(v) Bass: No limit and no size restriction.

(vi) Channel catfish: No limit.

(vii) Salmon and steelhead open year-round:

(A) From April 1 through July 31:

(I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release wild Chinook.

(B) From August 1 through March 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) ~~((Release wild Chinook and wild coho.))~~ Salmon: Only hatchery Chinook and hatchery coho may be retained.

(viii) Walleye: No limit and no size restriction.

(b) From the county road bridge below the former location of the powerhouse upstream to the Northwestern Road Bridge:

(i) Open April 1 through October 31:

(A) Catch and release, except up to 3 hatchery steelhead may be retained.

(B) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(C) Selective gear rules.

(ii) Salmon and steelhead: ~~((Open April 1 through July 31.))~~

(A) April 1 through July 31:

(I) Daily limit 3 fish, of which no more than 2 may be salmon.

~~((B))~~ (II) Release wild Chinook.

~~((C) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.~~

~~((D) Selective gear rules.))~~ (B) August 1 through October 31: Limit 6; up to 3 may be adults of which no more than 2 may be hatchery salmon.

(c) From the Northwestern Road Bridge upstream to Big Brothers Falls (river mile 16):

(i) From Big Brothers Falls downstream 400 feet: Closed.

(ii) Open the first Saturday in June through October 31.

(iii) Selective gear rules apply.

(iv) From the first Saturday in June through July 31, release all fish, except anglers may retain up to 3 hatchery steelhead.

(v) Salmon and steelhead: From August 1 through October 31: Limit 6, and up to 3 may be adults of which no more than 2 may be hatchery salmon.

(vi) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(d) Big Brothers Falls upstream to the source, including all tributaries: Open the first Saturday in June through October 31.

**(403) Wide Hollow Creek (Yakima County):** Open to juvenile anglers only.

**(404) Widgeon Lake (Grant County):** Open April 1 through September 30.

**(405) Williams Lake (Spokane County):** Open the fourth Saturday in April through September 30.



**(406) Williams Lake (Stevens County):**

(a) Open the first Friday after Thanksgiving through March 31.

(b) Release all fish except anglers may retain up to five rainbow trout.

**(407) Wilson Creek (Kittitas County):**

(a) Selective gear rules apply.

(b) Trout: Minimum size ten inches.

(c) Two branches within Ellensburg city limits: Open to juvenile anglers only.

**(408) Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve):** Open February 1 through September 30.

**(409) Yakima River (Yakima County):**

(a) General river rules:

(i) Release steelhead in the mainstem and tributaries.

(ii) Downstream of Highway 240 Bridge, Columbia River rules apply.

(iii) In the mainstem and tributaries:

(A) Bass: No limit and no size restrictions.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restrictions.

(b) Rules by river section:

(i) From the Highway 240 Bridge to 400 feet below Prosser Dam:

(A) Open March 1 through October 22.

(B) From the WDFW white markers 200 feet downstream of the USBR Chandler Powerhouse/Pumping Station spillway chute to the powerline crossing immediately upstream of the powerhouse: Open March 1 through August 31.

(C) From March 1 through August 31; for all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(D) Chumming is permissible.

(E) Trout: Catch and release only.

(F) Salmon:

(I) Open September 1 through October 22.

(II) Night closure in effect.

(III) It is unlawful to fish for salmon using anything other than barbless hooks.

(IV) Limit 6; it is unlawful to retain more than 2 adults.

(V) Fishing from a floating device is prohibited from the Grant Avenue Bridge in Prosser downstream approximately 1.25 miles to the downstream side of the westbound Interstate 82 Bridge.

(ii) From Prosser Dam to Highway 223 Bridge:

(A) Open May 1 through October 31.

(B) Trout: Catch and release only.

(iii) From Highway 223 Bridge to 400 feet below Sunnyside Dam: Trout: Minimum length is 12 inches, maximum length is 20 inches.

(iv) From Sunnyside Dam to 3,500 feet below Roza Dam:

(A) Closed from Yakima Avenue-Terrace Heights Bridge upstream 400 feet.

(B) Selective gear rules apply.

(C) It is unlawful to fish from a floating device equipped with an internal combustion motor from the I-82 Bridge at Selah Gap to 3,500 feet below Roza Dam.

(D) Trout: Minimum length 12 inches, maximum length 20 inches.

(E) Open December 1 through January 31 for whitefish only; whitefish gear rules apply.

(v) From Roza Dam to 400 feet below Easton Dam:

(A) Open year-round.

(B) It is permissible to fish from floating devices equipped with motors only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately 1.3 river miles).

(C) Selective gear rules apply.

(D) Trout: Catch and release.

(E) Open December 1 through January 31 for whitefish only; whitefish gear rules apply.

(vi) From Easton Dam to the base of Keechelus Dam:

(A) Selective gear rules apply.

(B) Trout: Catch and release only, except anglers may retain eastern brook trout. There is no limit and no minimum size restriction for eastern brook trout.

(vii) For all Yakima River tributaries from Roza Dam to Keechelus Dam not otherwise provided for in this section:

(A) Selective gear rules apply.

(B) Trout: Minimum length ten inches.

(C) Wilson Creek downstream of BNSF railroad bridge: Yakima River rules apply.

**(410) Yakima Sportsmen's Park Ponds (Yakima County):** Open to juvenile anglers only.

**(411) Yellowhawk Creek (Walla Walla County):** Closed.

**(412) Yocum Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1.5 inches or less along the longest axis.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

AMENDATORY SECTION (Amending WSR 16-06-073, filed 2/26/16, effective 7/1/16)

**WAC 220-310-200 Freshwater exceptions to state-wide rules—Columbia.** The following exceptions to state-wide rules apply to the Columbia River, including impoundments and all connecting sloughs, except Wells Ponds:

**(1) General Columbia River rules:**

(a) In the concurrent waters of the Columbia River between Washington and Oregon, the license of either state is valid when fishing from a vessel.

(i) Anglers must comply with the fishing regulations of the state in which they are fishing.

(ii) This subsection does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except as otherwise provided by department rule.

(iii) Anglers fishing the Columbia River are restricted to one limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

(b) It is unlawful to possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be

determined until the angler has reached their automobile or principal means of land transportation and completed his or her daily angling.

(c) Salmon and trout handling rules provided in WAC 220-56-118 apply to the Columbia River, except from February 15 through June 15 in the mainstem Columbia from the Rocky Point/Tongue Point line upstream to the Washington-Oregon border where WAC 220-56-118 applies only to anglers fishing from vessels less than 30 feet in length (as substantiated by Coast Guard documentation or Marine Board registration).

(d) From Buoy 10 to the Washington/Oregon border:

(i) From March 1 through May 15, the mainstem Columbia River is open for retention of adipose fin-clipped steelhead and shad only during days and in areas that are open for the retention of adipose fin-clipped spring Chinook salmon.

(ii) From August 1 through December 31, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(e) Open year-round unless otherwise provided.

(f) Barbless hooks are required for salmon and steelhead.

(g) Walleye and bass: No limit and no size restriction.

(h) Channel catfish: No limit.

(2) **Rules by river section:**

(a) **From a true north-south line through Buoy 10, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank:**

(i) Fishing from the north jetty is permissible when Marine Area 1 or Buoy 10 areas are open for salmon, and the limit and minimum size restrictions follow the most liberal regulations if both areas are open. Only single point barbless hooks may be used for salmon and steelhead.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) Salmon and steelhead:

(A) Open June 16 through July 31:

(I) Closed to fishing for salmon and steelhead from Buoy 10 to the Megler-Astoria Bridge.

(II) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(III) Release all salmon other than sockeye and hatchery Chinook.

~~((IV) From July 7 through July 31, release adult Chinook and sockeye.))~~

(B) Open August 1 through September ~~(7)~~ 5:

(I) Limit 2 ~~((salmon, or 2)), of which only one Chinook and/or one hatchery steelhead~~ ~~((or one of each))~~ may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(III) Chinook minimum length 24 inches ~~((; only one Chinook may be retained as part of the limit)).~~

(IV) On Sundays and Mondays, all Chinook must be adipose fin clipped to be retained.

(V) Coho minimum length 16 inches.

(C) Open September ~~((8))~~ 6 through September 30:

(I) Limit 2 ~~((; hatchery coho or)), of which only one hatchery steelhead~~ ~~((or one of each))~~ may be retained.

(II) Release all salmon other than hatchery coho.

(III) Coho minimum length 16 inches.

(D) Open October 1 through December 31:

(I) Limit 6; no more than 2 adult salmon, or ~~((2))~~ one adult salmon and one hatchery steelhead ~~((or one of each))~~, may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(E) Open January 1 through March 31:

(I) Limit 6; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(iv) Shad open May 16 through March 31.

(v) Forage fish and bottomfish: Marine Area 1 general rules apply; eulachon closed.

(b) **From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, upstream to the I-5 Bridge:**

(i) Trout:

(A) Open May 16 through March 31.

(B) Release all trout except hatchery cutthroat and hatchery steelhead (the limit is as provided under (b)(v) of this subsection).

(I) Anglers may retain up to 2 hatchery cutthroat.

(II) Hatchery cutthroat minimum length 12 inches.

(III) Barbless hooks are required for cutthroat trout.

(ii) Salmon and steelhead:

(A) Open May 16 through July 31:

(I) Release all salmon except hatchery Chinook and sockeye.

(II) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(III) Release sockeye and adult Chinook May 16 through June 15 ~~((and July 7 through July 31)).~~

(B) Open August 1 through September 30:

(I) Upstream of Warrior Rock line: Limit 6; no more than 2 adult salmon, or ~~((2))~~ one adult salmon and one hatchery steelhead, ~~((or one of each;))~~ may be retained. Release all salmon except Chinook and hatchery coho.

(II) Downstream of Warrior Rock line: Limit 6; no more than 2 adult salmon, ~~((and only one))~~ or one adult ~~((Chinook))~~ salmon and one hatchery steelhead, may be retained. Only one may be an adult Chinook. Release wild Chinook from September ~~((8))~~ 10 through September 14, and release all Chinook from September 15 through September 30.

(C) For the purpose of this subsection, "Warrior Rock line" is defined as a line projected from the Warrior Rock Lighthouse, through Red Buoy 4, to the orange marker atop the dolphin on the Washington shore.

(D) Open October 1 through December 31:

(I) Limit 6; no more than 2 adult salmon, or ~~((2))~~ one adult salmon and one hatchery steelhead, ~~((or one of each;))~~ may be retained.

(II) Release all salmon except Chinook and hatchery coho.

(E) Open January 1 through March 31:

(I) Limit 6 fish; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(iii) Shad open May 16 through March 31.

**(c) From the I-5 Bridge to Bonneville Dam:**

(i) The following waters are closed:

(A) From the upstream line of Bonneville Dam to boundary markers 600 feet below the fish ladder at the powerhouse.

(B) January 1 through April 30 from a line between the upstream end of Sand Island (near Rooster Rock) on the Columbia River, to the boundary marker on the Oregon shore, downstream to a line between the lower end of Sand Island and the boundary marker on the Oregon shore.

(C) Closed to angling from a floating device or by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost tip of Robins Island.

(ii) Camas Slough:

(A) It is permissible for an angler licensed in Oregon or Washington to fish from a floating device.

(B) In the waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island:

(I) From August 1 through December 31: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(II) From August 1 through December 31: Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(III) Open for salmon when the adjacent mainstem Columbia or Washougal rivers are open for salmon.

(IV) The limit for salmon is the same as the most liberal regulation of either area, except anglers may only retain hatchery Chinook and hatchery coho; release all other salmon.

(iii) Release all trout except hatchery steelhead.

(iv) Salmon and steelhead:

(A) Open June 16 through July 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook and sockeye.

~~((III) Release adult Chinook and sockeye July 7 through July 31.))~~

(B) Open August 1 through December 31:

(I) Limit 6; no more than 2 adult salmon ~~((or 2)), or one adult salmon and one hatchery steelhead, ((or one of each,)) may be retained~~~~((, except no more than 3 adults, of which no more than 2 may be hatchery coho or 2 hatchery steelhead, or one of each, may be retained upstream from a line projected from the lower end of the Steamboat Landing dock on the Washington shore through navigation Light #50 to the Oregon shore)).~~

(II) Release all salmon except Chinook and hatchery coho.

(III) Closed to fishing for salmon and steelhead November 1 through December 31 from Beacon Rock to Bonneville Dam.

(v) Steelhead: Open January 1 through March 31.

(vi) Shad: Open May 16 through March 31.

**(d) From Bonneville Dam to The Dalles Dam:**

(i) Closed waters:

(A) Within one quarter mile of the USFWS Spring Creek Hatchery Grounds, between posted markers located one quarter mile on either side of the fish ladder entrance.

(B) At The Dalles between the upstream line of The Dalles Dam to the upstream side of the Interstate 197 Bridge, except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15:

(I) Bank fishing only from Bonneville Dam to Tower Island powerlines (approximately 6 miles below The Dalles Dam).

(II) Only hand-cast lines may be used. It is unlawful to use a floating device to set lines for salmon and steelhead.

(B) Open June 16 through July 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except sockeye and hatchery Chinook.

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies and night closure in effect. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(II) Limit 6; no more than ~~((3))~~ 2 adults, of which no more than 2 ~~((may be coho or 2 hatchery steelhead, or one of each, may be retained))~~ adult salmon or 2 hatchery steelhead, or one of each, except September 1 through December 31 when no more than one hatchery steelhead may be retained.

(III) Release all salmon except Chinook and coho.

(IV) Release wild coho from Bonneville Dam to Hood River Bridge.

(iv) Steelhead: Open January 1 through March 31.

**(e) From The Dalles Dam to McNary Dam:**

(i) Closed waters:

(A) At John Day Dam between the upstream line of John Day Dam to markers approximately 3,000 feet downstream, except that bank fishing is permitted up to 400 feet below the fishway entrance on the Washington shore.

(B) At McNary Dam between the upstream line of McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing-wall of the boat lock near the Washington shore.

(ii) Release all trout except hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15:

(I) Anglers may possess up to 4 hatchery adult Chinook salmon in fresh form.

(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.

(B) Open June 16 through July 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook and sockeye.

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies and night closure in effect. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(II) Limit 6; no more than ~~((3))~~ 2 adults, of which no more than 2 may be ~~((coho))~~ adult salmon or 2 hatchery steelhead, or one of each, except September 1 through December 31 when no more than one hatchery steelhead may be retained.

(III) Release all salmon except Chinook and coho.

(iv) Steelhead: Open January 1 through March 31.

**(f) From McNary Dam to Highway 395 Bridge at Pasco:**

(i) The Snake River Confluence Protection Area includes waters of the Columbia River from the railroad bridge between Burbank and Kennewick, upstream approximately 2.1 miles to the first power line crossing the Columbia upstream of the navigation light on the point of Sacajawea State Park. For all species, limits, seasons, size restrictions and gear restrictions are the same as those in the adjacent portion of the Snake River.

(ii) Release all trout except hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15 from McNary Dam to the Washington/Oregon border:

(I) Anglers may possess up to 4 hatchery adult Chinook in fresh form.

(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.

(B) Open June 16 through July 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook and sockeye.

(C) Open August 1 through December 31:

(I) Limit 6; no more than ~~((3 adults, of which no more than 2 may be coho))~~ 2 adult salmon or 2 hatchery steelhead~~(:)~~ or one of each, except November 1 through December 31 when no more than one hatchery steelhead may be retained.

(II) Release all salmon except Chinook and coho.

(iv) Steelhead: Open January 1 through March 31.

**(g) From the Highway 395 Bridge at Pasco to the Interstate 182 Bridge:**

(i) Closed waters: Within a 400 foot radius of the Columbia Irrigation District (CID) fish barrier at the mouth of the CID wasteway at Columbia Park.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout:

(A) October 1 through October 31 release all trout, except 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) November 1 through March 31 release all trout, except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit 3; no more than 1 adult hatchery Chinook salmon ~~((and no more than 2 sockeye))~~ may be retained.

(II) Release wild adult Chinook and sockeye salmon.

(B) Open August 16 through October 31: Limit 6; no more than 3 adult salmon may be retained. Once the adult salmon or steelhead limit is retained, anglers may not continue to fish for ~~((any))~~ either species the remainder of the day.

**(h) From the Interstate 182 Bridge to the Old Hanford townsite wooden powerline towers, in Sec. 30, T13N, R28E:**

(i) Closed waters:

(A) The area of the Columbia River between the markers located 100 feet upstream and 100 feet downstream of the Ringold Springs Hatchery Creek, and extending 100 feet towards the middle of the river.

(B) September 1 through November 30: West Branch Esquatzel Coulee Block 1 Irrigation Wasteway Lagoon in the Columbia River.

(ii) Ringold Area Bank Fishery waters, from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet, to WDFW markers 1/2 mile upstream from Spring Creek:

(A) Fishing is allowed only from the bank and only on the hatchery side of the river.

(B) Release all trout, except anglers may retain up to 2 hatchery steelhead from April 1 through April 15.

(iii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iv) Trout:

(A) October 1 through October 31 release all trout, except 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) November 1 through March 31 release all trout, except anglers may retain up to 2 hatchery steelhead.

(v) Salmon:

(A) Open June 16 through August 15:

(I) Limit ~~((8))~~ 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(II) Release wild adult Chinook and sockeye.

(B) Open August 16 through October 31: Limit 6; no more than 3 adult salmon may be retained. Once the adult salmon or steelhead daily limit has been retained, anglers may not continue to fish for ~~((any))~~ either species the remainder of the day.

**(i) From the Old Hanford townsite wooden power line towers, in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24):**

(i) Open February 1 through October 22.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit ~~((8))~~ 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(II) Release wild adult Chinook and sockeye.

(B) Open August 16 through October 22: Limit 6; no more than 3 adult salmon may be retained. ~~((Once the adult salmon daily limit is retained, anglers may not continue to fish for any species the remainder of the day.))~~

**(j) From Vernita Bridge (Highway 24) to Priest Rapids Dam:**

(i) Closed waters:

(A) At Priest Rapids Dam; waters between the upstream line of Priest Rapids Dam downstream to the boundary markers 650 feet below the fish ladders.

(B) At Jackson (Moran) Creek, or Priest Rapids Hatchery Outlet Creek; waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia River between boundary markers located 100 feet upstream and 400 feet downstream of the mouth.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit ((§)) 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(II) Release wild adult Chinook and sockeye.

(B) Open August 16 through October 22: Limit 6; no more than 3 adult salmon may be retained. ~~((Once the adult salmon daily limit is retained, anglers may not continue to fish for any species the remainder of the day.))~~

**(k) From Priest Rapids Dam to Rock Island Dam:**

(i) Closed waters:

(A) Wanapum Dam, between the upstream line of Wanapum Dam to the boundary markers 750 feet downstream of the east fish ladder and 500 feet downstream of the west fish ladder.

(B) Rock Island Dam, between the upstream line of Rock Island Dam to boundary markers 400 feet downstream of the fish ladders.

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) Release all trout.

(iv) Salmon:

(A) Open July 1 through August 31:

(I) Limit ((§)) 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(II) Release sockeye, coho and wild adult Chinook.

(B) Open September 1 through October 22: Open for Chinook only; limit 6 ~~((Chinook))~~, no more than 3 adults ~~((Chinook salmon))~~ may be retained. Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

**(l) From Rock Island Dam to Wells Dam:**

(i) Closed waters:

(A) At Rocky Reach Dam between the upstream line of the dam to boundary markers 400 feet downstream of the fish ladders.

(B) At Wells Dam, between the upstream line of Wells Dam to boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side).

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) ~~((Trout: Catch and release only.))~~ Release all trout.

(iv) Salmon open July 1 through October 15:

(A) Limit ((§)) 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(B) Release sockeye, coho and wild adult Chinook.

**(m) From Wells Dam to Highway 173 Bridge at Brewster:**

(i) July 16 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(ii) Release all trout.

(iii) Salmon open July 16 through August 31:

(A) Limit ((§)) 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(B) Release sockeye, coho and wild adult Chinook.

**(n) From Highway 173 Bridge at Brewster to Chief Joseph Dam:**

(i) Closed waters:

(A) From the Okanogan County shore between Chief Joseph Dam and the Highway 17 Bridge.

(B) From the Douglas County shore from Chief Joseph Dam to the rock jetty at the upstream shoreline of Foster Creek.

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) It is unlawful to fish from a floating device downstream of Chief Joseph Dam from the boundary marker to the Corps of Engineers safety zone marker.

(iv) ~~((Trout: Catch and release only.))~~ Release all trout.

(v) Salmon: Open July 1 through October 15:

(A) Limit ((§)) 4; no more than 2 adult hatchery Chinook ~~((and no more than 6 sockeye))~~ may be retained.

(B) Release sockeye, coho and wild adult Chinook.

(o) **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-310-195.

(p) **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-310-195.

AMENDATORY SECTION (Amending WSR 15-13-081, filed 6/12/15, effective 7/13/15)

**WAC 232-28-620 Coastal salmon—Saltwater seasons and daily limits.** (1) It is unlawful to take, fish for, or possess salmon taken by angling for personal use except from the following coastal areas, during the following seasons, in the quantities and the sizes provided for in WAC 220-56-180, and for the species designated in this section. An area is open when a daily limit is provided:

**(2) Catch Record Card Area 1:**

(a) May 1 through ~~((May 29))~~ June 30: Closed.

(b) ~~((May 30 through June 12))~~ July 1 through August 31:

(i) Daily limit of 2 salmon; no more than one may be a Chinook.

(ii) Release wild coho ~~((and wild Chinook~~

~~((e) June 13 through September 30:~~

~~(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.~~

~~(ii) Release wild coho).~~

~~((d) October)) (c) September 1 through April 30: Closed.~~

~~((e)) (d) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-56-195.~~

**(3) Catch Record Card Area 2:**

(a) May 1 through ~~((May 29)) June 30~~: Closed.

(b) ~~((May 30 through June 12)) July 1 through August 21:~~

(i) Daily limit of ~~((2)) one~~ salmon.

(ii) Release coho ~~((and wild Chinook)).~~

~~((e) June 13 through September 30:~~

~~(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.~~

~~(ii) Release wild coho.~~

~~(d) October 1)) (iii) Beginning August 8, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3 (46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).~~

~~(c) August 22 through April 30 - Closed.~~

**(4) Willapa Bay (Catch Record Card Area 2-1):**

(a) May 1 through ~~((May 29)) June 30~~: Closed.

(b) ~~((May 30)) July 1 through July ((+5)) 31~~: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) ~~((July 16)) August 1~~ through January 31:

(i) Daily limit of 6 salmon; no more than 4 may be adult salmon.

(ii) Release wild Chinook.

(iii) Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing.

(iv) Waters north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green) then, northeasterly to the power transmission pole located at 46°43.19'N, 123°50.83'W are closed August 1 through September 30.

(d) February 1 through April 30: Closed.

**(5) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):**

(a) May 1 through July 31: Closed.

(b) August 1 through September ~~((+5)) 24~~:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) Waters south of a line running from the south end of the eastern jetty at Ocean Shores Marina to the fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) are closed.

(c) September ~~((+6)) 25 through September 30~~: Closed.

~~(d) October 1~~ through November 30:

(i) Daily limit of ~~((3)) 1~~ salmon.

(ii) Release wild Chinook.

(iii) Waters west of a line running from the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W)

through channel marker 27 (green) to the mouth of Johns River (Highway 105 Bridge) are closed.

~~((d)) (e) December 1 through April 30: Closed.~~

~~((e)) (f) Notwithstanding the provisions of this subsection, the Westport Boat Basin and Ocean Shores Boat Basin are open only August 16 through January 31:~~

(i) Daily limit of 6 salmon; no more than 4 may be adult salmon.

(ii) Release Chinook.

(iii) Night closure and anti-snagging rule in effect.

**(6) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):**

(a) ~~((August 10)) May 1~~ through ~~((May 29)) June 30~~: Closed.

(b) ~~((May 30)) July 1~~ through August ~~((9)) 7~~: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

~~(c) August 8 through April 30: Closed.~~

**(7) Catch Record Card Area 3:**

(a) May 1 through June ~~((+3)) 30~~: Closed~~((, except May 15 through May 16, May 22 through May 23, and May 30 through June 12:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release coho and wild Chinook).~~

(b) ~~((June 13 through September 30)) July 1 through August 21:~~

(i) Daily limit of 2 salmon.

(ii) Release ~~((wild))~~ coho.

(iii) In years ending in odd numbers, two additional pink salmon may be retained as part of the daily limit.

(c) ~~((October 1)) August 22~~ through April 30: Closed.

~~((d) Notwithstanding the provisions of this subsection, waters north of 47°50'00"N latitude and south of 48°00'00"N latitude are also open September 30 through October 11:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release wild coho.)~~

**(8) Catch Record Card Area 4:**

(a) May 1 through June ~~((+3)) 30~~: Closed~~((, except May 15 through May 16, May 22 through May 23, and May 30 through June 12:~~

~~(i) Daily limit of 2 salmon.~~

~~(ii) Release coho and wild Chinook.~~

~~(iii) Waters east of a true north-south line through Sail Rock are closed).~~

(b) ~~((June 13 through September 30)) July 1 through August 21:~~

(i) Daily limit of 2 salmon.

(ii) Release ~~((wild))~~ coho ~~((salmon)).~~

(iii) In years ending in odd numbers, two additional pink salmon may be retained as part of the daily limit.

(iv) Waters east of a true north-south line through Sail Rock are closed through July 31.

(v) ~~((Release Chinook salmon caught)) Waters east of the Bonilla-Tatoosh line closed~~ beginning August 1.

(vi) Release chum salmon beginning August 1.

(c) ~~((September)) August 22~~ through April 30: Closed.

(9) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested salmon. If the person has harvested salmon, the violation is punishable under RCW 77.15.380, Unlawful recreational

fishing in the second degree—Penalty, unless the salmon are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

**WSR 16-11-100**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed May 18, 2016, 10:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-02-117 on January 6, 2016.

Title of Rule and Other Identifying Information: WAC 220-40-027 Salmon—Willapa Bay fall fishery.

Hearing Location(s): Region 6 Fish and Wildlife Office, Conference Room, 48 Devonshire Road, Montesano, WA 98563, on June 21, 2016, at 10 a.m. - 12 p.m.

Date of Intended Adoption: On or after June 22, 2016.

Submit Written Comments to: Scott Bird, Washington Department of Fish and Wildlife (WDFW) Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Rules.Coordinator@dfw.wa.gov, fax (360) 902-2155, by June 21, 2016.

Assistance for Persons with Disabilities: Contact Dolores Noyes by June 21, 2016, TTY (360) 902-2207 or (360) 902-2349.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules incorporate the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council (PFMC) for taking harvestable numbers of salmon during the commercial salmon fisheries in Willapa Bay, while protecting species of fish listed as endangered.

Reasons Supporting Proposal: This rule will protect salmon species while also supporting commercial salmon fishing in Willapa Bay.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

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

Name of Proponent: [No information supplied by agency], governmental.

Name of Agency Personnel Responsible for Drafting: Barbara McClellan, 48 Devonshire Road, Montesano, WA 98563, (360) 249-1213; Implementation: Ron Warren, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2799; and Enforcement: Steve Crown, Chief, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule:**

These rules will incorporate the recommendations of the North of Falcon subgroup of PFMC to take harvestable salmon while protecting species of fish, marine mammals, and sea birds listed as endangered. The rules include legal gear requirements, area restrictions, and open periods for commercial salmon fisheries occurring in Willapa Bay.

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:** These rule changes clarify dates for anticipated open periods and areas for full-fleet and limited participation salmon fisheries, and legal gear requirements for those fisheries.

**3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** The changes proposed by these rules that carry potential compliance costs include gear restrictions during certain days in Areas 2U, 2M, 2N and 2R. WAC 220-40-027 specifies gill net mesh requirements of 4.25" maximum for salmon fisheries in Catch Area 2U on September 16, 19, 20, 21, 22, 23, 27, 28, 29, 30, October 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14 and in Catch Areas 2M, 2N and 2R on September 6 and 7 and September 8 in Catch Areas 2M and 2R. This gear restriction is similar to gear restrictions the department has proposed in the past for Willapa Bay and Grays Harbor salmon fisheries; and currently used in the Columbia River. Because some license holders fish the Columbia River and/or Grays Harbor, they have already acquired this gear. Other license holders will be required to obtain the gear if they choose to fish in 2U, 2M, 2R or 2N on the aforementioned dates. In addition, this cost can be amortized over years as the net should last for several years. Cost of compliance is a range of a one-time cost to satisfy compliance with the rule. That cost is between \$4000 and \$5000.

**4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?** The proposed rules do not affect the harvestable numbers of salmon available to nontreaty fleets. Therefore, the proposed rules should not cause any businesses to lose sales or revenue.

**5. Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:** The only metric available to the department for identifying the largest ten percent of businesses, or for use in a cost comparison for small and large businesses, is the exvessel value of salmon sold by each Willapa Bay salmon commercial license in recent years. This exvessel value is used as a surrogate for sales in this analysis, but it is an underestimate of total sales, since the majority of the businesses affected have additional revenue from other fisheries and related ventures. In addition, this analysis assumes that all license holders will be required to purchase equipment described above. However, some license holders already own gear that meets the requirements, and will not be required to purchase new gear. These two factors combined mean that the cost of compliance per one hundred dollars of sales will be overestimated for small and large businesses. Also note that each individual license was treated as a business for this analysis, although some businesses own more than one license.

There were approximately sixty-one Willapa Bay salmon licenses that participated in the Willapa Bay fishery in 2015. The cost of compliance will vary between license types, but the average cost per license is approximately \$4,500, assuming that all license holders will be required to spend the amounts described above. For the ten percent of licenses with the highest exvessel sales values for 2015 combined, the average exvessel value per year was \$13,608. This means that the cost of compliance per \$100 of exvessel value would be \$33.06. Most businesses affected by these rules qualify as small businesses, so an average cost of compliance for all businesses was calculated for comparison. The average exvessel value per year for all licenses for 2015 was \$2,603, meaning the average cost of compliance would be \$172.89 per \$100 of exvessel value. Again, both of these estimates of cost of compliance are believed to be overestimates, for the reasons described above.

**6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So:** Most businesses affected by these rules are small businesses. As indicated above, the gear restrictions proposed by the rules apply to Columbia River salmon fisheries, and are identical to gear restrictions the department has required in past Willapa Bay and Grays Harbor salmon fishery seasons.

**7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** As in previous years, WDFW interacted with and received input from affected businesses through the North of Falcon process, which is a series of public meetings occurring from Feb-

ruary through April each year. These meetings allowed constituents to participate in formulating these rules.

**8. A List of Industries That Will Be Required to Comply with the Rule:** All licensed fishers attempting to harvest salmon in the all-citizen commercial salmon fisheries occurring in Willapa Bay will be required to comply with these rules.

A copy of the statement may be obtained by contacting Barbara McClellan, 48 Devonshire Road, Montesano, WA 98563, phone (360) 249-1213, fax (360) 249-1229, e-mail Barbara.McClellan@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

May 17, 2016  
 Scott Bird  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-18-029, filed 8/25/15, effective 9/8/15)

**WAC 220-40-027 Salmon—Willapa Bay fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods:**

(1) Gillnet gear may be used to fish for coho salmon, chum salmon, and Chinook salmon:

Area	Time	Date(s)	Maximum Mesh Size
2M, 2N, 2R	<del>((6:00))</del> <u>7:00</u> a.m. through <del>((6:00))</del> <u>7:00</u> p.m.	<del>((9/8, 9/10))</del> <u>9/6, 9/7</u>	<del>((6.5"))</del> <u>4.25"</u>
<u>2M, 2R</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/8</u>	<u>4.25"</u>
2T	6:00 a.m. through 6:00 p.m.	<del>((9/16, 9/17, 9/18, 9/19))</del> <u>9/16, 9/17</u>	6.5"
2M, <del>((2N,))</del> 2R	6:00 a.m. through 6:00 p.m.	<u>9/11, 9/12, 9/13, 9/14, <del>((9/15,))</del> 9/16, 9/17<del>((9/18, 9/19))</del></u>	6.5"
<u>2N</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/11, 9/12, 9/13, 9/16, 9/17</u>	<u>6.5"</u>
2U	6:00 a.m. through 6:00 p.m.	9/16 <del>((, 9/17, 9/18, 9/19))</del>	4.25"
2T	<del>((6:30))</del> <u>6:00</u> a.m. through <del>((6:30))</del> <u>6:00</u> p.m.	<u>9/19, 9/20, 9/21, 9/22<del>((, 9/23, 9/24, 9/25, 9/26,))</del></u>	6.5"
2U	<del>((6:30))</del> <u>6:00</u> a.m. through <del>((6:30))</del> <u>6:00</u> p.m.	<u>9/19, 9/20, 9/21, 9/22, 9/23</u>	4.25"
<del>((2U))</del> <u>2N</u>	<del>((6:30))</del> <u>6:00</u> a.m. through <del>((6:30))</del> <u>6:00</u> p.m.	<u>9/20, 9/21, 9/22, 9/23, 9/24<del>((, 9/25, 9/26,))</del></u>	6.5"
2M, <del>((2N,))</del> 2R	<del>((6:30))</del> <u>6:00</u> a.m. through <del>((6:30))</del> <u>6:00</u> p.m.	<u>9/18, 9/19, 9/20, 9/21, 9/22, 9/23<del>((, 9/24, 9/25, 9/26,))</del></u>	6.5"
<u>2M, 2N, 2R, 2T</u>	7:00 a.m. through 7:00 p.m.	<u>9/27, 9/28, 9/29, 9/30, 10/1<del>((, 10/2, 10/3,))</del></u>	6.5"
2U	7:00 a.m. through 7:00 p.m.	9/27, 9/28, 9/29, <u>9/30, 10/1</u>	4.25"
2U	7:00 a.m. through 7:00 p.m.	<del>((10/1, 10/2,))</del> <u>10/3, 10/4, 10/5, 10/6</u>	<del>((6.5"))</del> <u>4.25"</u>



Area	Time	Date(s)	Maximum Mesh Size
2M, 2N, 2R	7:00 a.m. through 7:00 p.m.	<del>((9/28, 9/29, 9/30, 10/1, 10/2,))</del> 10/3, <u>10/4, 10/5, 10/6</u>	6.5"
2U	<del>((7:30))</del> <u>7:00</u> a.m. through <del>((7:30))</del> <u>7:00</u> p.m.	<del>((40/5))</del> <u>10/9, 10/10, 10/11, 10/12, 10/13, 10/14</u>	<del>((6.5"))</del> <u>4.25"</u>
<del>((2M, 2N</del>	<del>7:30 a.m. through 7:30 p.m.</del>	<del>10/5, 10/6, 10/7, 10/8, 10/9</del>	<del>6.5"</del>
<del>2R</del>	<del>7:30 a.m. through 7:30 p.m.</del>	<del>10/5, 10/6</del>	<del>6.5"))</del>
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	<del>((11/2, 11/3,))</del> <u>11/1 through 11/4</u> <del>((, 11/5, 11/6))</del>	6.5"
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	<del>((11/9, 11/10, 11/11, 11/12, 11/13))</del> <u>11/7 through 11/11</u>	6.5"
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	<del>((11/16, 11/17,))</del> <u>11/14 through 11/18</u> <del>((, 11/19, 11/20))</del>	6.5"
2M, 2N, 2R, 2T, 2U	12:01 a.m. through 11:59 p.m.	<del>((11/23, 11/24,))</del> <u>11/21 through 11/25</u> <del>((, 11/26, 11/27))</del>	6.5"

((Note: Those waters of 2T north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N; 123°50.83134'W are closed through September 30.))

#### Gear:

(2) Gillnet gear restrictions - All areas:

~~((1))~~ (a) ~~((1))~~ Drift gillnet gear only. It is unlawful to use set net gear.

~~((b))~~ (b) It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

~~((1))~~ (c) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line.

~~((d))~~ (d) It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

~~((1))~~ (e) From 12:01 a.m. September ~~((8))~~ 6 through November 30: Mesh size must not exceed six and one-half inches stretched, except mesh size must not exceed four and one-quarter inches stretched in Areas 2M, 2N, 2R on September 6, 7, and 8 and in Area 2U on September 16, ~~((17, 18,))~~ 19, 20, 21, 22, 23, 27, 28, ~~((and))~~ 29, 30, October 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, and 14.

#### Other:

(3) Recovery boxes and soak time limits described in this section are required from 12:01 a.m. September ~~((8))~~ 6 through 11:59 p.m. October ~~((10))~~ 14:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) All steelhead and wild (unmarked) Chinook must be placed in an operating recovery box, which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection. From September ~~((8))~~ 6 through October ~~((3))~~ 1, all chum must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection.

(c) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river/bay prior to landing or docking.

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorse-

ment." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.

(5) Retention prohibitions:

(a) All green and white sturgeon and all steelhead, except as provided in subsection (3) of this section, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay.

(b) Retention of any species other than coho salmon, chum salmon, or Chinook is prohibited.

(c) From 12:01 a.m. September ~~((8))~~ 6 through 11:59 p.m. October ~~((3))~~ 1, retention of any species other than coho salmon or hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(d) From 12:01 a.m. October ~~((4))~~ 2 through 11:59 p.m. October ~~((10))~~ 14, retention of any species other than coho salmon, chum salmon, or hatchery Chinook marked by a healed scar at the site of the adipose fin is prohibited.

(6) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) Do NOT remove tags from white sturgeon. Please obtain available information from tags without removing tags. Submit tag information to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563.

(8) Those waters of Area 2T north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N, 123°50.83134'W are CLOSED from 6:00 a.m. September 16, 2016 through 11:59 p.m., September 30, 2016.

(9) It is unlawful to fish with gillnet gear in Areas 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

~~((9))~~ (10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on September 1.

~~((10) Fishers must provide notice of intent to participate in 2U on September 16, 17, 18, 19, 20, 21, 22, 27, 28, and 29 by contacting quick reporting by phone, fax, or e-mail. Notice of intent must be given prior to 12:00 p.m. on September 1. Fishers must take department observers when participating in these openings:))~~

## WSR 16-11-101

### PROPOSED RULES

#### HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed May 18, 2016, 10:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-06-099.

Title of Rule and Other Identifying Information: WAC 182-551-1510 Rates methodology and payment method for hospice agencies.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2016.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on June 21, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by June 17, 2016, e-mail [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), (360) 725-1349 or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments replace the single routine home care (RHC) per diem payment rate with a two-tiered payment model for RHC days, add a service intensity add-on payment, and include housekeeping changes throughout.

Reasons Supporting Proposal: Amendments to this rule are necessary to implement new CMS requirements (42 C.F.R. 418 Subpart G Payment for Hospice Care) for RHC rates.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 42 C.F.R. 418 Subpart G Payment for Hospice Care.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 42 C.F.R. 418 Subpart G Payment for Hospice Care.

Rule is necessary because of federal law, 42 C.F.R. 418 Subpart G.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Mary Hughes, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-0469.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

May 18, 2016  
Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-03-035, filed 1/12/16, effective 2/12/16)

**WAC 182-551-1510 Rates methodology and payment method for hospice agencies.** This section describes rates methodology and payment methods for hospice care provided to hospice clients.

(1) The medicaid agency uses the same rates methodology as Medicare uses for the four levels of hospice care identified in WAC 182-551-1500.

(2) Each of the four levels of hospice care has the following three rate components:

- (a) Wage component;
- (b) Wage index; and
- (c) Unweighted amount.

(3) To allow hospice payment rates to be adjusted for regional differences in wages, the medicaid agency bases payment rates on the ~~((metropolitan))~~ core-based statistical area ~~((MSA))~~ (CBSA) county location. ~~((MSAs))~~ CBSAs are identified in the medicaid agency's provider guides.

(4) ~~((Payment rates for:~~

~~(a) Routine and continuous home care services are based on the county location of the client's residence.~~

~~(b) Inpatient respite and general inpatient care services are based on the MSA county location of the providing hospice agency.~~

~~((5))~~ The medicaid agency pays hospice agencies for services (not room and board) at a daily rate ~~((calculated))~~ methodology as follows:

(a) Payments for services delivered in a client's residence (routine and continuous home care) are based on the county location of the client's residence ~~((of))~~.

(b) Payments for routine home care (RHC) are based on a two-tiered payment methodology.

(i) Days one through sixty are paid at the base RHC rate.

(ii) Days sixty-one and after are paid at a lower RHC rate.

(iii) If a client discharges and readmits to a hospice agency's program within sixty calendar days of that discharge, the prior hospice days will continue to follow the client and count towards the client's eligible days in determining whether the hospice agency may bill at the base or lower RHC rate.

(iv) If a client discharges from a hospice agency's program for more than sixty calendar days, a readmit to the hospice agency's program will reset the client's hospice days.

(c) Hospice services are eligible for an end-of-life service intensity add-on (SIA) payment when the following criteria are met:

(i) The day on which the services are provided is an RHC level of care;

(ii) The day on which the service is provided occurs during the last seven days of life, and the client is discharged deceased;

(iii) The service is provided by a registered nurse or social worker that day for at least fifteen minutes and up to four hours total; and

(iv) The service is not provided by the social worker via telephone.

(d) Payments for respite and general inpatient care are based on the county location of the providing hospice agency.

~~((6))~~ (5) The medicaid agency:

(a) Pays for routine hospice care, continuous home care, respite care, or general inpatient care for the day of death;

(b) Does not pay room and board for the day of death; and

(c) Does not pay hospice agencies for the client's last day of hospice care when the last day is for the client's discharge, revocation, or transfer.

~~((7))~~ (6) Hospice agencies must bill the medicaid agency for their services using hospice-specific revenue codes.

~~((8))~~ (7) For hospice clients in a nursing facility:

(a) The medicaid agency pays nursing facility room and board payments at a daily rate directly to the hospice agency at ninety-five percent of the nursing facility's current medicaid daily rate in effect on the date the services were provided; and

(b) The hospice agency pays the nursing facility at a daily rate no more than the nursing facility's current medicaid daily rate.

~~((9))~~ (8) The medicaid agency:

(a) Pays a hospice care center a daily rate for room and board based on the average room and board rate for all nursing facilities in effect on the date the services were provided.

(b) Does not pay hospice agencies or hospice care centers a nursing facility room and board payment for:

(i) A client's last day of hospice care (e.g., client's discharge, revocation, or transfer); or

(ii) The day of death.

~~((10))~~ (9) The daily rate for authorized out-of-state hospice services is the same as for in-state ~~((non-MSA))~~ non-CBSA hospice services.

~~((11))~~ (10) The client's notice of action (award) letter states the amount ~~((of participation))~~ the client is responsible to pay each month towards the total cost of hospice care. The hospice agency receives a copy of the award letter and:

(a) Is responsible to collect the correct amount ~~((of the client's participation if the client has))~~ that the client is required to pay, if any; and

(b) Must show the client's monthly ~~((participation))~~ required payment on the hospice claim. (Hospice providers may refer to the medicaid agency's provider guides for how to bill a hospice claim.) If a client has a ~~((participation))~~ required payment amount that is not reflected on the claim and the medicaid agency reimburses the amount to the hospice agency, the amount is subject to recoupment by the medicaid agency.

**WSR 16-11-102**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed May 18, 2016, 10:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-02-117 on January 6, 2016.

Title of Rule and Other Identifying Information: WAC 220-36-023 Salmon—Grays Harbor fall fishery.

Hearing Location(s): Region 6 Fish and Wildlife Office, Conference Room, 48 Devonshire Road, Montesano, WA 98563, on June 22, 2016, at 10 a.m. - 12 p.m.

Date of Intended Adoption: On or after June 23, 2016.

Submit Written Comments to: Scott Bird, Washington Department of Fish and Wildlife (WDFW) Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Rules.Coordinator@dfw.wa.gov, fax (360) 902-2155, by June 22, 2016.

Assistance for Persons with Disabilities: Contact Dolores Noyes by June 22, 2016, TTY (360) 902-2207 or (360) 902-2349.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules incorporate the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council (PFMC) for taking harvestable numbers of salmon during the commercial salmon fisheries in Grays Harbor, while protecting species of fish listed as endangered.

Reasons Supporting Proposal: This rule will protect salmon species while also supporting commercial salmon fishing in Grays Harbor.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047.

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

Name of Proponent: [No information supplied by agency], governmental.

Name of Agency Personnel Responsible for Drafting: Barbara McClellan, 48 Devonshire Road, Montesano, WA 98563, (360) 249-1213; Implementation: Ron Warren, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2799; and Enforcement: Steve Crown, Chief, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule:** This proposed rule change incorporates the recommendations of the North of Falcon subgroup of PFMC to take harvestable salmon in Grays Harbor while taking reasonable and prudent measures to protect local salmon and steelhead stocks of concern and nonlocal species of fish listed under the federal Endangered Species Act as threatened or endangered. The rule includes legal gear requirements, area restrictions, and

open periods for commercial salmon fisheries occurring in Grays Harbor.

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:** None, these rule changes clarify dates for anticipated open periods, show areas in Grays Harbor that are closed to commercial harvest methods, and explain legal gear requirements. There are no anticipated professional services required to comply.

**3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** The proposed rule changes are similar to the requirements of the rule in previous years and primarily only adjust opening and closing dates. The proposed rule changes do not require any additional equipment, supplies, labor, or administrative costs. Therefore, there are no additional costs to comply with the proposed rules.

**4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?** The proposed rule changes do not affect the harvestable numbers of salmon available to commercial fishers licensed to fish in Grays Harbor. Therefore, the proposed rule changes should not cause any businesses to lose sales or revenue.

**5. Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:** The proposed rule changes do not require any additional equipment, supplies, labor, or administrative costs. Therefore, no costs for compliance are anticipated.

**6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So:** Most businesses affected by these rule changes are small businesses. As indicated above, all of the gear restrictions proposed by the rules are identical to gear restrictions WDFW has required in past salmon fishery seasons. Therefore, the gear restrictions will not impose new costs on small businesses.

**7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** As in previous years, WDFW interacts with and receives input from affected businesses through the North of Falcon process, which is a series of public meetings occurring from February through April each year. These meetings allow small businesses to participate in formulating the agreements underlying these rules. Additionally, WDFW will allow for written public comment and hold a public hearing on these rule changes as required under the Administrative Procedures [Procedure] Act, chapter 34.05 RCW.

**8. A List of Industries That Will Be Required to Comply with the Rule:** All licensed fishers attempting to harvest salmon in the all-citizen commercial salmon fisheries occurring in Grays Harbor will be required to comply with the rule.

A copy of the statement may be obtained by contacting Barbara McClellan, 48 Devonshire Road, Montesano, WA 98563, phone (360) 249-1213, fax (360) 249-1229, e-mail Barbara.McClellan@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

May 17, 2016  
Scott Bird  
Rules Coordinator

Time: Areas:  
7:00 a.m. through 7:00 p.m.  
October 31.

AMENDATORY SECTION (Amending WSR 15-19-086, filed 9/16/15, effective 10/11/15)

**WAC 220-36-023 Salmon—Grays Harbor fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods:**

(1) Gillnet gear may be used to fish for Chinook, coho, and chum salmon, and shad as provided in this section and in the times and area identified in the chart below.

Time:	Areas:
<del>7:00 a.m. through 11:59 a.m.</del>	Area 2A and Area 2D
<u>7:00 p.m. October 24;</u>	
<del>((12:30 p.m.)) 7:00 a.m.</del>	
<del>through ((4:30)) 7:00 p.m.</del>	
<del>October ((14)) 25;</del>	
<del>AND</del>	
<del>((8:30)) 7:00 a.m. through</del>	
<del>((5:30)) 7:00 p.m. October</del>	
<del>((18;)) 26.</del>	
<del>((8:30 a.m. through 5:30 p.m.-</del>	
<del>October 19;</del>	
<del>8:00 a.m. through 5:00 p.m.-</del>	
<del>October 20;</del>	
<del>8:00 a.m. through 5:00 p.m.-</del>	
<del>October 21;</del>	
<del>8:00 a.m. through 5:00 p.m.-</del>	
<del>November 1;</del>	
<del>8:00 a.m. through 5:00 p.m.-</del>	
<del>November 2;</del>	
<del>8:00 a.m. through 5:00 p.m.-</del>	
<del>November 3;</del>	
<del>AND</del>	
<del>8:00 a.m. through 5:00 p.m.-</del>	
<del>November 4.</del>	
<del>6:30 a.m. through 3:30 p.m.-</del>	Area 2C
<del>October 26;</del>	
<del>AND)) 6:30 a.m. through 10:30</del>	Area 2C
<del>p.m. October 17;</del>	
<del>6:30 a.m. through ((3:30))</del>	
<del>10:30 p.m. October ((27)) 18.</del>	
<del>7:00 a.m. through 7:00 p.m.</del>	
<del>October 30;</del>	
<del>AND</del>	

**Gear:**

(2) Gear restrictions:

(a) It is permissible to have on board a commercial vessel more than one net, provided that the length of any one net does not exceed one thousand five hundred feet in length. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches in diameter or greater.

(b) Areas 2A and 2D from October 1 through November 30: Gillnet gear only.

(i) It is unlawful to use set net gear.

(ii) It is unlawful to utilize any object, except the vessel deploying the gear, to impede a gillnet or its attached line or float from drifting.

(iii) Mesh size must not exceed six and one-half inch maximum. Nets may be no more than fifty-five meshes deep.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. The lead line must not rest on the bottom in such a manner as to prevent the net from drifting. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

(c) Area 2C from October 1 through November 30: Gillnet gear only.

(i) It is unlawful to use set net gear.

(ii) It is unlawful to utilize any object, except the vessel deploying the gear, to impede a gillnet or its attached line or float from drifting.

(iii) Mesh size must not exceed nine inches.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. The lead line must not rest on the bottom in such a manner as to prevent the net from drifting. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

**Other:**

(3) Recovery boxes and soak times:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing Areas 2A, 2C, and 2D.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked and any time a fish is being held in accordance with (b) and (c) of this subsection. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river or fresh bay water into each chamber.

(b) When fishing in Grays Harbor Areas 2A and 2D, all steelhead and wild (unmarked) Chinook must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

(c) When fishing in Grays Harbor Area 2C, all steelhead and wild (unmarked) coho must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

(d) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river or bay prior to landing or docking.

(e) For Areas 2A, 2C, and 2D, soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Retention of any species other than coho, chum, hatchery Chinook marked by a healed scar at the site of the adipose fin, or shad is prohibited in Areas 2A and 2D from October 1 through November 30.

(5) Retention of any species other than Chinook, chum, or hatchery coho marked by a healed scar at the site of the adipose fin, or shad, is prohibited in Area 2C from October 1 through November 30.

(6) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.

(7) Report all encounters of green sturgeon to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and include encounters with each day's quick reporting.

(8) Do NOT remove tags from white or green sturgeon. Please obtain available information from tags without removing tags. Submit tag information to:

Washington Department of Fish and Wildlife  
48 Devonshire Rd.  
Montesano, WA 98563.

(9)(a) Fishers must take department observers, if requested, by department staff when participating in these openings.

(b) Fishers also must provide notice of intent to participate by contacting Quick Reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on October 1, for openings in Areas 2A, 2C, or 2D.

(10) It is unlawful to fish for salmon with tangle net or gillnet gear in Areas 2A, 2C, and 2D unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in his or her possession a department-issued certification card.

**WSR 16-11-103**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
[Filed May 18, 2016, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-02-119 on January 6, 2016.

Title of Rule and Other Identifying Information: WAC 220-310-180 Freshwater exceptions to statewide rules—Coast, 220-16-220 Geographical definitions—Willapa Bay, and 220-56-185 Marine area codes.

Hearing Location(s): Region 6 Fish and Wildlife Office, Conference Room, 48 Devonshire Road, Montesano, WA 98563, on June 21, 2016, at 1:30 p.m. - 3:30 p.m.

Date of Intended Adoption: On or after June 22, 2016.

Submit Written Comments to: Scott Bird, Washington Department of Fish and Wildlife Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Rules.Coordinator@dfw.wa.gov, fax (360) 902-2155, by June 21, 2016.

Assistance for Persons with Disabilities: Contact Dolores Noyes by June 21, 2016, TTY (360) 902-2207 or (360) 902-2349.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making incorporates coastal freshwater recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council (PFMC) for recreational anglers to take harvestable salmon while protecting species of fish listed as endangered.

Reasons Supporting Proposal: To protect fish species listed as endangered while supporting recreational fishing opportunity and to incorporate changes to the rule needed as a result of the recommendations of the North of Falcon subgroup of PFMC.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

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

Name of Proponent: [No information supplied by agency], governmental.

Name of Agency Personnel Responsible for Drafting: Barbara McClellan, 48 Devonshire Road, Montesano, WA 98563, (360) 249-1213; Implementation: Ron Warren, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2799; and Enforcement: Steve Crown, Chief, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule amendments do not affect small business; i.e., there is no direct regulation of small business. The rules apply to recreational fishers.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not involve hydraulics.

May 17, 2016  
Scott Bird  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 91-08-054, filed 4/2/91, effective 5/3/91)

**WAC 220-16-220 Geographical definitions—Willapa Bay.** The term "Willapa Bay" shall be construed to include all the waters of Willapa Bay outside the mouth of any tributary river or stream inside and easterly of a line from Leadbetter Point ((~~to Willapa Bay Channel Marker 8 (Buoy 8) and~~)) (46°39'12"N, 124°3'31"W) due west to 46°39'12"N, 124°5'20"W then due north to the westerly most landfall on Cape Shoalwater at 46°44'40"N, 124°5'20"W.

**AMENDATORY SECTION** (Amending WSR 10-07-105, filed 3/19/10, effective 5/1/10)

**WAC 220-56-185 Marine area codes.** The term "marine area code numbers" is defined as the catch area for the catch record card. The following is a list of the catch areas:

(1) Area 1 (Ilwaco): Waters west of the Buoy 10 Line and north to Leadbetter Point.

(2)(a) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. Area 2 excludes waters of Willapa Bay and Grays Harbor.

(b) Area 2-1: Willapa Bay east of a line from Leadbetter Point ((~~to Willapa Channel Marker 8 (Buoy 8)~~)) (46°39'12"N, 124°3'31"W) due west to 46°39'12"N, 124°5'20"W then due north to the westerly most landfall on Cape Shoalwater at 46°44'40"N, 124°5'20"W.

(c) Area 2-2: Grays Harbor east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Rosario Strait Traffic Lane Entrance Lighted Buoy R (USCG Light List No. 16340, referenced as Y "R" on National Ocean Service Chart No.

18400-1 dated 1997-08-30) - Smith Island - the most north-easterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(8)(a) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point - Shipwreck Line.

(b) Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #4 on Camano Island (Fl red 4 sec.).

(c) Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #4 on Camano Island (Fl red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(11) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

**AMENDATORY SECTION** (Amending WSR 16-06-073, filed 2/26/16, effective 7/1/16)

**WAC 220-310-180 Freshwater exceptions to state-wide rules—Coast.** (1) **Aberdeen Lake (Grays Harbor County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: No more than 2 trout over 15 inches in length may be retained.

(2) **Alder Creek (Pacific County) (Naselle River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(3) **Anderson Lake (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Open September 1 through October 31:

(i) Selective gear rules apply.

(ii) Trout: Catch and release only.

**(4) Bear Creek (Clallam County) (Bogachiel River tributary):**

(a) Open the first Saturday in June through ~~((October))~~ August 31.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

**(5) Bear Creek (Clallam County) (Sol Duc River tributary):**

(a) Open the first Saturday in June through ~~((October))~~ August 31.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

**(6) Bear River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through March 31.

(c) August 16 through November 30: Night closure in effect.

(i) From the mouth (Highway 101 Bridge) to Lime Quarry Road (approximately two river miles):

(A) August 16 through November 30:

(I) Barbless hooks required.

(II) Anti-snagging rule applies.

(B) Release all fish, except anglers may retain up to 2 hatchery steelhead.

(C) Salmon:

(I) Open September 1 through January 31.

(II) Limit 6 fish; only 4 may be adults.

(III) Release wild Chinook.

(ii) From the Lime Quarry Road upstream to the Longview Fiber Bridge:

(A) Selective gear rules apply.

(B) Release all fish, except anglers may retain up to 2 hatchery steelhead.

**(7) Beaver Creek (Clallam County) (Sol Duc River tributary):**

(a) From the mouth upstream to Beaver Falls:

(i) Open the first Saturday in June through ~~((October))~~ August 31.

(ii) It is unlawful to use anything other than one barbless hook.

(iii) It is unlawful to use bait.

(iv) Trout:

(A) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) Release wild (unclipped) rainbow trout.

(b) From Beaver Falls upstream to Beaver Lake: Open the first Saturday in June through October 31.

**(8) Beaver Lake (Clallam County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Maximum length 12 inches.

**(9) Big Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(10) Big River (Clallam County), outside of Olympic National Park:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through October 15, and January 1 through the last day of February.

(c) Selective gear rules apply.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

**(11) Black Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(12) **Black Lake (Pacific County):** Open the fourth Saturday in April through October 31.

**(13) Black River (Grays Harbor/Thurston counties):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to State Highway 12:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(c) From Highway 12 to bridge on 128th Ave. S.W.:

(i) Anti-snagging rule applies.

(ii) Night closure in effect.

(iii) Barbless hooks are required.

(iv) Open for game fish the first Saturday in June through October 31; trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((v) Salmon open October 1 through January 31:~~

~~(A) From October 1 through November 30:~~

~~(I) Limit 6; only 2 adults may be retained.~~

~~(II) Release Chinook and chum.~~

~~(B) From December 1 through January 31:~~

~~(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.~~

~~(II) Release Chinook and chum.)~~

(d) From bridge on 128th Avenue S.W. (west of Little Rock) to Black Lake:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.



**(14) Bogachiel River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From the mouth to (~~Highway 101 Bridge~~) mouth of Mill Creek:

(i) Open the first Saturday in June through August 31 and November 16 through April 30.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 30.

(iii) Trout:

(A) From the first Saturday in June through August 31 and November 16 through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From April 1 through April 30: Trout minimum length 14 inches.

(C) November ~~((+))~~ 16 through last day in February: The limit may include one additional hatchery steelhead.

(iv) Salmon open July 1 through August 31 and November 16 through 30:

(A) From July 1 through August 31:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) From (~~September +~~) November 16 through November 30: Limit (~~(6; only one adult may be retained)~~) one; release wild coho.

(e) From the mouth of Mill Creek to the Highway 101 Bridge (~~(to Olympic National Park boundary)~~):

(i) Open the first Saturday in June through August 31 and December 1 through April 30.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 30.

(iii) Trout:

(A) From the first Saturday in June through August 31 and December 1 through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From April 1 through April 30: Trout minimum length 14 inches.

(C) December 1 through last day in February: The limit may include one additional hatchery steelhead.

(iv) Salmon open July 1 through August 31.

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(f) From Highway 101 Bridge to Olympic National Park boundary:

(i) Open the first Saturday in June through August 31 and December 1 through April 30.

(ii) It is unlawful to use bait.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

**(15) Bone River (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(16) Bunker Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(17) Butte Creek (Pacific County) (Smith River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(18) Calawah River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From the mouth to the Highway 101 Bridge:

(i) Open the first Saturday in June through August 31 and November 16 through April 30.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 30.

(iii) Trout:

(A) From the first Saturday in June through August 31 and November 16 through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From April 1 through April 30: Trout minimum length 14 inches.

(C) From November ~~((+))~~ 16 through the last day in February: The limit may include one additional hatchery steelhead.

(iv) Salmon open July 1 through August 31 and November 16 through November 30:

(A) From July 1 through August 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) From (~~September +~~) November 16 through November 30: Limit (~~(6; only one adult may be retained)~~) one; release wild coho.

(e) From the Highway 101 Bridge to the forks:

(i) Open the first Saturday in June through August 31 and December 1 through April 30.

(ii) It is unlawful to use bait.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

**(19) Calawah River, North Fork (Clallam County):**

(a) Open the first Saturday in June through (~~October~~) August 31.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

**(20) Calawah River, South Fork (Clallam County):**

(a) Open the first Saturday in June through August 31 and December 1 through the last day in February from the mouth to the Olympic National Park boundary.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait.

(e) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

**(21) Cases Pond (Pacific County):**

(a) Open the fourth Saturday in April through November 30 to juvenile anglers only.

(b) Landlocked salmon rules apply.

**(22) Cedar Creek (Clallam County), outside of Olympic National Park:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through October 31.

(c) Selective gear rules apply.

(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(23) Cedar Creek (Grays Harbor/Thurston counties) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(24) Cedar Creek (Jefferson County), outside Olympic National Park:**

(a) Open the first Saturday in June through the last day in February.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(25) Cedar River (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(26) Chehalis River (Grays Harbor County), including all channels, sloughs, and interconnected waterways:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Highway 101 Bridge in Aberdeen) to South Elma Bridge (Wakefield Road) including all channels, sloughs, and interconnected waterways:

(i) All species (~~July~~) August 1 through November 30:

(A) Single-point barbless hooks are required.

(B) Anglers may fish with two poles from the mouth to the South Elma Bridge (Wakefield Road), provided they possess a valid two-pole endorsement.

(ii) Game fish:

(A) Open the first Saturday in June through April 15:

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open (~~May 1~~) April 16 through June 30: Limit one salmon.

(B) Open (~~July 1~~) August 1 through (~~November 30~~) September 15:

(I) Limit 6 (~~only 3 adults may be retained~~).

(II) Release adult (~~Chinook~~) salmon.

(C) (~~December 1~~) September 16 through January 31:

(I) Limit 6; only (~~2~~) one adult(~~s~~) may be retained (~~and only one may be a wild adult coho~~).

(II) Release wild Chinook and wild coho.

(c) From South Elma Bridge (Wakefield Road) to the (~~Black River~~) Porter Boat Launch:

(i) All species: Single-point barbless hooks are required August (~~46~~) 1 through November 30.

(ii) Game fish:

(A) Open the first Saturday in June through April 15.

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open (~~May 1~~) April 16 through June 30: Limit one salmon.

(B) Open (~~September 16~~) August 1 through (~~November 30~~) September 15:

(I) Limit 6 (~~only 3 adults may be retained~~).

(II) Release adult (~~Chinook~~) salmon.

(C) Open (~~December 1~~) September 16 through January 31:

(I) Limit 6; only (~~2~~) one adult(~~s~~) may be retained (~~and only one may be a wild adult coho~~).

(II) Release wild Chinook and wild coho.

(d) From (~~Black River~~) Porter Boat Launch to the Highway 6 Bridge in the town of Adna:

(i) All species August 16 through November 30: Single-point barbless hooks are required.

(ii) Game fish:

(A) Open the first Saturday in June through April 15:

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open (~~May 1~~) April 16 through June 30: Limit one salmon.

(B) Open September 16 through (~~November 30~~) January 31:

(I) Limit 6; only (~~3~~) one adult(~~s~~) may be retained.

(II) Release (~~adult~~) wild Chinook, wild coho, and chum.

(~~C) Open December 1 through January 31:~~

(~~I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.~~

(~~II) Release Chinook and chum.~~)

(e) From the Highway 6 Bridge in the town of Adna to the high bridge on Weyerhaeuser 1000 line approximately 400 yards downstream of Roger Creek (south of Pe Ell):

(i) All species August 16 through November 30: Single-point barbless hooks are required.

(ii) Game fish:

(A) Open the first Saturday in June through April 15.

(B) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon:

(A) Open ~~((October 1))~~ September 16 through ~~((November 30))~~ January 31:

(I) Limit 6; only ~~((3))~~ one adult~~((s))~~ may be retained.

(II) Release Chinook, wild coho, and chum.

~~((B) Open December 1 through January 31:~~

~~(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.~~

~~((H) Release Chinook and chum.))~~

(f) From high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell, including all forks) upstream:

(i) Open the first Saturday in June through April 15.

(ii) Selective gear rules apply.

(iii) Release all fish, except anglers may retain up to 2 hatchery steelhead.

**(27) Chehalis River, South Fork (Lewis County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to County Highway Bridge near Boistfort School:

(i) Open the first Saturday in June through April 15.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(c) From the County Highway Bridge near Boistfort School, upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

**(28) Chenois Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(29) Chester Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(30) Chimacum Creek (Jefferson County):**

(a) From the mouth to Ness's Corner Road:

(i) Open the first Saturday in June through August 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

(b) From Ness's Corner Road to headwaters:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only.

**(31) Clallam River (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through January 31.

(c) Selective gear rules apply from the first Saturday in June through October 31.

(d) From the first Saturday in June through October 31: Catch and release only.

(e) Trout: Minimum length 14 inches.

**(32) Clearwater River (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) Release wild (unclipped) rainbow trout.

(d) From the mouth to Snahapish River:

(i) Open the first Saturday in June through August 31 and December 1 through April 15:

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((iv) Salmon:~~

~~(A) Open September 1 through November 30.~~

~~(B) Limit 6; only one may be an adult.~~

~~(C) Release wild adult coho.))~~

(e) From Snahapish River upstream:

(i) Open the first Saturday in June through ~~((October))~~ August 31.

(ii) It is unlawful to use bait.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

**(33) Cloquallum Creek (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the outlet at Stump Lake:

(i) Open the first Saturday in June through the last day in February.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

(c) From the outlet at Stump Lake upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

**(34) Coal Creek (Clallam County) tributary to Ozette River, outside the Olympic National Park boundary:**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

(ii) Release kokanee.

**(35) Connor Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(36) Cook Creek (Grays Harbor County), from the Quinault Indian Reservation boundary upstream:**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(37) Copalis River (Grays Harbor County):**

(a) General river rules:

(i) From the first Saturday in June through last day in February: Open for game fish.

(ii) It is permissible to retain hatchery steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(b) Rules by river section:

(i) From the mouth to Carlisle Bridge:

(A) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) Salmon:

(I) Open ~~((September))~~ October 1 through January 31.

(II) Limit 6; only ~~((2))~~ one adult salmon may be retained.

(III) Release adult Chinook and chum.

(ii) From Carlisle Bridge upstream: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(38) Crim Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(39) Crocker Lake (Jefferson County):** Closed.

**(40) Crooked Creek (Clallam County) and tributaries that are outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

**(41) Damon Lake (Grays Harbor County):** Open the first Saturday in June through October 31.

**(42) Deep Creek (Clallam County) (Humptulips River tributary):**

(a) Open December 1 through January 31.

(b) Selective gear rules apply.

(c) Release all fish, except mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

**(43) Deep Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(44) Delezene Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(45) Dickey River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From Olympic National Park boundary upstream to the confluence of the East and West forks:

(i) Open the first Saturday in June through August 31 and December 1 through April 30.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April ~~((+5))~~ 30.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iv) Salmon open July 1 through ~~((November 30:))~~

~~((A) From July 1 through))~~ August 31:

(I) Limit 6; only 2 adult salmon may be retained.

(II) Release wild adult Chinook and wild adult coho.

~~((B) From September 1 through November 30: Limit 6; only one adult may be retained.))~~

(e) From the confluence of the East and West forks upstream (for both forks):

(i) Open the first Saturday in June through August 31 and December 1 through April 30.

(ii) It is unlawful to use bait.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(46) Donkey Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(47) Duck Lake (Grays Harbor County):**

(a) Crappie: No limit and no minimum length.

(b) Grass carp: No limit for anglers and bow and arrow fishing.

**(48) Dungeness River (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the forks at Dungeness Forks Campground:

(i) Open October 6 through January 31.

(ii) Trout: Minimum length 14 inches.

(iii) Salmon:

(A) Open only from the mouth to the hatchery intake pipe at river mile 11.3 from October 16 through December 31.

(B) Limit 4 coho only.

(c) From Gold Creek upstream: Open the Saturday before Memorial Day through October 31.

**(49) East Twin River (Clallam County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(50) Eight Creek (Lewis County) (tributary to Elk Creek, which is a Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(51) Elk Creek (Clallam County), outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

**(52) Elk Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(53) Elk Lake (Clallam County):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

**(54) Elk River (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Highway 105 Bridge) to the confluence of ~~((east and))~~ the middle ~~((branches))~~ branch:

(i) Open the first Saturday in June through the last day in February.

(ii) From August 16 through November 30: Single-point barbless hooks are required.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((iv) Salmon open October 1 through November 30:~~

~~(A) Limit 6; only one adult may be retained.~~

~~(B) Release Chinook.))~~

(c) From confluence of ~~((east and))~~ the middle ~~((branches))~~ branch upstream:

(i) Open the first Saturday in June through the last day in February.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(55) Elkhorn Creek (Pacific County) (Smith Creek tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(56) Ellis Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

**(57) Ellsworth Creek (Pacific County) (Naselle River tributary):**

(a) Open the first Saturday in June through September 30.

(b) Selective gear rules apply.

**(58) Failor Lake (Grays Harbor County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: It is unlawful to retain more than two trout over 15 inches in length per day.

**(59) Fairchild Creek (Pacific County) (Wilson Creek tributary, which is a Willapa River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(60) Fall River ~~((and all forks))~~ (Pacific County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(61) Falls Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

**(62) Fern Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

**(63) Finn Creek (Pacific County) (North Nemah River tributary):** Open the first Saturday in June through October 31.

**(64) Fork Creek (Pacific County) (Willapa River tributary):**

(a) From Forks Creek Hatchery rack upstream 500 feet at fishing boundary sign:

(i) Open only for anglers with lower extremity disabilities who must permanently use a medically prescribed assistive device every time for mobility as defined in WAC 232-12-825(1) and possess a designated harvester companion card.

(ii) Night closure in effect.

(iii) From October 1 through November 30:

(A) Single-point barbless hooks are required.

(B) Stationary gear restriction applies.

(iv) Open the first Saturday in June through July 15 and October 1 through March 31: Release all fish, except anglers may retain up to 2 hatchery steelhead.

(v) Salmon open October 1 through January 31.

(A) From October 1 through November 30:

(I) Limit 6; only 3 adults may be retained, and only 2 may be wild adult coho.

(II) Release wild Chinook.

(B) From December 1 through January 31:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

(II) Release wild Chinook.

(b) From the fishing boundary sign 500 feet above Forks Creek Hatchery rack upstream to the source:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

**(65) Garrard Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(66) Gibbs Lake (Jefferson County):**

(a) Selective gear rules apply.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Trout: Catch and release only.

**(67) Goodman Creek (Jefferson County), outside Olympic National Park:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through the last day in February.

(c) Selective gear rules apply.

(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(68) Grass Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(69) Gray Wolf River (Clallam County):** From the bridge at river mile 1.0, upstream:

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(70) Halfmoon Creek (Pacific County) (Willapa River tributary):**

- (a) Open the first Saturday in June through October 15.
- (b) Selective gear rules apply.

**(71) Halfway Creek (Lewis County) (tributary of Stillman Creek, which is a Chehalis River tributary):**

(a) Open the first Saturday in June through October 31 from the mouth to the second bridge crossing on Pe Ell McDonald Road.

- (b) Selective gear rules apply.

**(72) Hanaford Creek (Lewis County) (Skookumchuck River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

**(73) Harris Creek (Grays Harbor County) (Chehalis River tributary):**

- (a) Open the first Saturday in June through October 31.
- (b) Trout: Selective gear rules apply.

**(74) Hoh River (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

- (b) Release wild (unclipped) rainbow trout.

(c) It is unlawful to use anything other than one barbless hook.

(d) From the Olympic National Park boundary upstream to the DNR Oxbow Campground Boat Launch:

(i) Open August 1 through October 10 and November 21 through April 15.

(A) From August 1 through October 10 and November 21 through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From April 1 through April 15: Trout minimum length 14 inches.

(C) From November ~~((4))~~ 21 through February 15: The trout limit may include one additional hatchery steelhead.

(ii) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.

(iii) Salmon open September 1 through October 10 and November 21 through November 30: Limit 6; only one adult may be retained. Release wild coho.

(e) From the DNR Oxbow Campground Boat Launch to Morgans Crossing Boat Launch site:

(i) Open August 1 through October 10 and November 21 through April 15.

- (ii) It is unlawful to use bait.

(iii) From August 1 through April 15: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iv) Salmon open (~~((October 16))~~) November 21 through November 30: Limit 6; only one adult may be retained. Release wild coho.

(f) From Morgan's Crossing Boat Launch upstream to the Olympic National Park boundary below mouth of South Fork Hoh River:

(i) Open August 1 through October 10 and November 21 through April 15.

- (ii) It is unlawful to use bait.

~~((iii))~~ (iii) It is unlawful to fish from a floating device.

~~((iii))~~ (iv) Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(75) Hoh River, South Fork (Jefferson County), outside the Olympic National Park boundary:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Open August 1 through October 10 and November 21 through April 15.

(c) It is unlawful to use anything other than one barbless hook.

- (d) It is unlawful to use bait.

(e) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

- (ii) Release wild (unclipped) rainbow trout.

**(76) Hoko River (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the upper Hoko Bridge:

(i) Closed to fishing from the hatchery ladder downstream 100 feet.

(ii) Open the first Saturday in June through March 15. Open to fly fishing only September 1 through October 31, except mandatory retention of hatchery steelhead.

- (iii) Trout: Minimum length fourteen inches.

(c) From the upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5):

(i) Open the first Saturday in June through March 31 to fly fishing only, except mandatory retention of hatchery steelhead.

(ii) Release all fish except anglers may retain up to two hatchery steelhead, except mandatory retention of hatchery steelhead.

**(77) Hoquiam River, including West Fork (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Highway 101 Bridge on Simpson) to Dekay Road Bridge (West Fork):

(i) August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the first Saturday in June through the last day of February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((iii))~~ ~~Salmon open October 1 through December 31:~~

~~(A) From October 1 through November 30:~~

~~(1) Limit 6; only 2 adults may be retained.~~

~~(H) Release Chinook.~~

~~(B) From December 1 through December 31:~~

~~(1) Limit 6; only one adult may be retained.~~

~~(H) Release Chinook.)~~

(c) From Dekay Road Bridge upstream:

(i) Open the first Saturday in June through the last day of February.

- (ii) Selective gear rules apply.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(78) Hoquiam River, East Fork (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the confluence of Berryman Creek:

(i) August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the first Saturday in June through the last day of February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((iii) Salmon open October 1 through December 31:~~

~~(A) From October 1 through November 30:~~

~~(I) Limit 6; only 2 adults may be retained.~~

~~(H) Release Chinook.~~

~~(B) From December 1 through December 31:~~

~~(I) Limit 6; only 1 adult may be retained.~~

~~(H) Release Chinook.))~~

(c) From the confluence of Berryman Creek upstream to Youman's Road Bridge:

(i) Open the first Saturday in June through the last day of February.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

**(79) Hoquiam River, Middle Fork (Grays Harbor County):** From the mouth upstream:

(a) Open the first Saturday in June through last day of October.

(b) Selective gear rules apply.

**(80) Horseshoe Lake (Jefferson County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Trout: Limit one.

**(81) Howe Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(82) Humptulips River (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Jessie Slough) to the Highway 101 Bridge, including all channels, sloughs, and interconnected waterways:

(i) From August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon open September 1 through January 31:

(A) From September 1 through September 30:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult Chinook.

(II) Release wild coho.

(B) From October 1 through November 15:

(I) Limit 6; only 2 adults may be retained, and only one may be an adult Chinook.

(II) Release wild coho.

(C) From November 16 through January 31:

(I) Limit 6: Only ((2)) one adult((s)) may be retained.

(II) Release Chinook and wild coho.

(c) From the Highway 101 Bridge to the confluence of the East and West forks:

(i) From December 1 through March 31: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(ii) From August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(iii) Open the first Saturday in June through March 31:

(A) From the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From March 1 through March 31:

(I) Release all fish, except anglers may retain up to 2 hatchery steelhead.

(II) Selective gear rules apply.

(iv) Salmon open September 1 through January 31:

(A) From September 1 through September 30:

(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult Chinook.

(II) Release wild coho.

(B) From October 1 through November 15:

(I) Limit 6; only 2 adults may be retained, and only one may be an adult Chinook.

(II) Release wild coho.

(C) From November 16 through January 31:

(I) Limit 6; only ((2)) one adult((s)) may be retained.

(II) Release Chinook and wild coho.

**(83) Humptulips River, East Fork (Grays Harbor County):**

(a) From the mouth to the concrete bridge on Forest Service Road 220:

(i) August 16 through October 31: Anti-snagging rule applies and night closure in effect.

(ii) Open the first Saturday in June through October 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From the concrete bridge on Forest Service Road 220 upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

**(84) Humptulips River, West Fork (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Donkey Creek:

(i) August 16 through November 30: Anti-snagging rule applies and night closure in effect.

- (ii) Open the first Saturday in June through March 31:
  - (A) From the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
  - (B) From March 1 through March 31:
    - (I) Selective gear rules apply.
    - (II) It is unlawful to fish from a floating device equipped with an internal combustion motor.
    - (III) Release all fish, except anglers may retain up to 2 hatchery steelhead.
      - (c) From Donkey Creek upstream:
        - (i) Open the first Saturday in June through October 31.
        - (ii) Selective gear rules apply.
- (85) **Independence Creek (Grays Harbor County) (Chehalis River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (86) **Jimmy-Come-Lately Creek (Clallam County):**
  - (a) From the mouth to confluence with East Fork:
    - (i) Open the first Saturday in June through August 31.
    - (ii) Selective gear rules apply.
    - (iii) Catch and release only.
  - (b) From confluence with East Fork upstream, including East Fork: Open the first Saturday in June through October 31.
- (87) **Joe Creek (Grays Harbor County):**
  - (a) From the mouth to Ocean Beach Road Bridge:
    - (i) August 16 through November 30: Single-point barbless hooks are required.
    - (ii) Open the first Saturday in June through November 30: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
    - (iii) Salmon open (~~(September)~~) October 1 through November 30:
      - (A) Limit 6; only ((2)) one adult((s)) may be retained.
      - (B) Release adult Chinook and chum.
  - (b) From Ocean Beach Road Bridge upstream:
    - (i) Open the first Saturday in June through October 31.
    - (ii) Selective gear rules apply.
    - (iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (88) **Johns River (Grays Harbor County):**
  - (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
  - (b) From the mouth (Highway 105 Bridge) to Ballon Creek:
    - (i) August 16 through November 30: Single-point barbless hooks are required.
    - (ii) Open the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
    - ~~((iii) Salmon open October 1 through November 30:~~
      - ~~(A) Limit 6; only one adult may be retained.~~
      - ~~(B) Release Chinook.))~~
    - (c) From Ballon Creek upstream, including North and South Forks:
      - (i) Open the first Saturday in June through September 30 and December 1 through the last day in February.
      - (ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

- (89) **Jones Creek (Lewis County) (Chehalis River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (90) **Kalaloch Creek (Jefferson County), outside Olympic National Park:**
  - (a) Closed within the section posted as the Olympic National Park water supply.
  - (b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
  - (c) Open the first Saturday in June through the last day in February:
    - (i) Selective gear rules apply.
    - (ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (91) **Leland Creek (Jefferson County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Catch and release only.
- (92) **Lena Lake, Lower (Jefferson County):** The inlet stream is closed from the mouth upstream to the footbridge (about 100 feet).
- (93) **Lincoln Creek, including South Fork (Lewis County) (Chehalis River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (94) **Lincoln Pond (Clallam County):** Open to juvenile anglers only.
- (95) **Little Hoko River (Clallam County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
  - (c) Catch and release only.
- (96) **Little Hoquiam River (Grays Harbor County):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (97) **Little North River (~~(and all forks)~~) (Grays Harbor County) (North River tributary):**
  - (a) Open the first Saturday in June through October 31.
  - (b) Selective gear rules apply.
- (98) **Little Quilcene River (Jefferson County):**
  - (a) From the mouth to the Little Quilcene River Bridge on Penny Creek Road:
    - (i) Open the first Saturday in June through October 31.
    - (ii) From the mouth to Highway 101 Bridge: Open first Saturday in June through August 31.
    - (iii) Selective gear rules apply.
    - (iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.
    - (v) Catch and release only.
  - (b) From Little Quilcene River Bridge on Penny Creek Road upstream: Open the first Saturday before Memorial Day through October 31.



(99) **Long Beach Peninsula waterways and lakes (Pacific County):** Open the fourth Saturday in April through October 31.

(100) **Loomis Lake (Pacific County):** Open the fourth Saturday in April through October 31.

(101) **Loomis Pond (Grays Harbor County):** Closed.

(102) **Lower Salmon Creek ((and all forks)) (Grays Harbor/Pacific counties) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(103) **Lucas Creek (Lewis County) (tributary to the Newaukum River North Fork):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(104) **Ludlow Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(105) **Ludlow Lake (Jefferson County):** Open the fourth Saturday in April through October 31.

(106) **Lyre River (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to falls near river mile 3:

(i) Open the first Saturday in June through January 31.

(ii) Trout: Minimum length 14 inches.

(c) From the falls to the Olympic National Park boundary:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only, except mandatory hatchery steelhead retention applies.

(107) **Matheny Creek (Jefferson County) (Queets River tributary), outside Olympic National Park:**

(a) Open the first Saturday in June through ~~(October)~~ August 31.

(b) ~~(Selective gear rules apply.)~~ It is unlawful to use anything other than one barbless hook.

(c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(d) Release wild (unmarked) rainbow trout.

(108) **McDonald Creek (Clallam County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(109) **Middle Nemah River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth upstream to the department of natural resources bridge on the Middle Nemah A-Line Road:

(i) Open the first Saturday in June through March 31: Release all fish except anglers may retain up to 2 hatchery steelhead.

(ii) August 1 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(iii) Salmon:

(A) Open September 1 through January 31.

(B) Limit 6; no more than 4 adults may be retained.

(C) Release wild Chinook.

(c) From the department of natural resources bridge on the Middle Nemah A-Line Road upstream:

(i) Open the first Saturday in June through March 31:

(A) Selective gear rules apply.

(B) Release all fish, except mandatory retention of hatchery steelhead.

(ii) August 16 through November 30: Anti-snagging rule applies and night closure in effect.

(110) **Mill Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(111) **Mill Creek Pond (Grays Harbor County):** Open to juvenile anglers only.

(112) **Mitchell Creek (Lewis County) (tributary to the Newaukum River North Fork):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Trout: Catch and release only.

(113) **Moclips River (Grays Harbor County):**

(a) Open from the mouth to the Quinault Indian Reservation boundary from the first Saturday in June through the last day in February.

(b) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

~~((e) Salmon is open September 1 through January 31:~~

~~(i) Limit 6; only 2 adults may be retained.~~

~~(ii) Release chum and adult Chinook.))~~

(114) **Morse Creek (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Port Angeles Dam:

(i) Open from December 1 through January 31.

(ii) Trout: Minimum length 14 inches.

(c) From Port Angeles Dam upstream: Open the first Saturday in June through October 31.

(115) **Mosquito Creek (Jefferson County):**

(a) Open outside Olympic National Park upstream to the Goodman 3000 Mainline Bridge from the first Saturday in June through the last day in February.

(b) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(c) Selective gear rules apply.

(d) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length, as part of the limit.

(116) **Mox Chehalis Creek (Grays Harbor County) (Chehalis River tributary):** Open the first Saturday in June through October 31: Selective gear rules apply.

(117) **Naselle River (Pacific/Wahkiakum counties):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Selective gear rules apply February 1 through April 15.

(c) From the Highway 101 Bridge to the Highway 4 Bridge:

(i) From August 1 through November 15:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) Barbless hooks are required.

(D) From the South Fork upstream to the Highway 4 Bridge: Stationary gear restriction applies.

(ii) From Highway 101 Bridge upstream to Highway 401: Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the first Saturday in June through April 15: Release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon open August 1 through January 31:

(A) From August 1 through October 31:

(I) Limit 6; only 4 adults may be retained.

(II) Release wild Chinook.

(B) From November 1 through January 31:

(I) Limit 6; only 4 adults may be retained and only two adults may be wild coho.

(II) Release wild Chinook.

(d) From the Highway 4 Bridge to the upstream entrance of the Naselle Hatchery Attraction Channel:

(i) Closed waters from the upstream entrance of the hatchery attraction channel downstream ~~((400))~~ 300 feet.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) From ~~((September))~~ August 16 through November 15:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) Barbless hooks are required.

(D) Stationary gear rules in effect.

(iv) Open the first Saturday in June through July 31 and September 16 through April 15: Release all fish, except mandatory retention of hatchery steelhead.

(v) Salmon open ~~((September))~~ August 16 through January 31:

(A) From ~~((September))~~ August 16 through ~~((October 31))~~ September 15:

(I) Limit 6; only ~~((4))~~ 2 adults may be retained.

(II) Release wild Chinook.

(B) From September 16 through October 31:

(I) Limit 6; only 4 adults may be retained.

(II) Release wild Chinook.

~~(C)~~ From November 1 through January 31:

(I) Limit 6; only 4 adults may be retained and only two may be wild adult coho.

(II) Release wild Chinook.

(e) From the upstream entrance of the Naselle Hatchery Attraction Channel to the Crown Mainline (Salme) Bridge:

(i) The following areas are closed:

(A) From the falls in Sec. 6, T10N, R8W (Wahkiakum Co.) downstream 400 feet.

(B) Downstream of the full spanning concrete diversion structure at the Naselle Hatchery: Closed August 1 through October 15.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) From August 1 through November 15:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(C) Barbless hooks are required.

(D) Stationary gear rules in effect.

(iv) Open the first Saturday in June through April 15: Release all fish, except mandatory retention of hatchery steelhead.

(v) Salmon open October 16 through January 31:

(A) From October 16 through October 31:

(I) Limit 6; only 4 adults may be retained.

(II) Release wild Chinook.

(B) From November 1 through January 31:

(I) Limit 6; only 4 adults may be retained and only two may be wild adult coho.

(II) Release wild Chinook.

(f) From the Crown Mainline (Salme) Bridge to the mouth of the North Fork:

(i) Open the first Saturday in June through April 15: Release all fish except anglers may retain up to 2 hatchery steelhead.

(ii) From August 16 through November 30:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

(g) Upstream from the mouth of the North Fork:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Release all fish, except mandatory retention of hatchery steelhead.

**(118) North Naselle River (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(119) South Naselle River (Pacific County):**

(a) From the mouth to Bean Creek: Open the first Saturday in June through the last day in February.

(b) From the first Saturday in June through August 15: Selective gear rules apply.

(c) August 16 through November 30: Anti-snagging rule applies and night closure in effect.

(d) Release all fish except anglers may retain up to 2 hatchery steelhead.

**(120) Neil Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) Open from the mouth to USFS 22 Road from the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(121) Newaukum River, including South Fork (Lewis County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to Leonard Road near Onalaska:

(i) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(iii) Salmon open October 1 through ~~((the last day in February))~~ December 31:

~~(A) ((From October 1 through November 30:~~

~~(H))~~ Limit 6; only (3) ~~one~~ adult(s) may be retained.

~~((H))~~ (B) Release Chinook, wild coho, and chum.

~~((B) From December 1 through the last day in February:~~

~~(F) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.~~

~~(H) Release Chinook and chum.)~~

(c) From Leonard Road near Onalaska to Highway 508 Bridge near Kearny Creek:

(i) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(d) From Highway 508 Bridge upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Trout: Catch and release only.

(iv) August 16 through October 31: Night closure in effect.

**(122) Newaukum River, Middle Fork (Lewis County), from the mouth to Tauscher Road Bridge:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June to March 31.

(c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length.

**(123) Newaukum River, North Fork (Lewis County), from the mouth to 400 feet below the Chehalis city water intake:**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through March 31.

(c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length.

**(124) Newman Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(125) Newskah Creek (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(126) Niawiakum River (Pacific County):** From Highway 101 Bridge to the South Bend/Palix Road Bridge:

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) August 16 through November 30:

(i) Night closure in effect.

(ii) Single-point barbless hooks are required.

(c) Open the first Saturday in June through November 30.

(d) Salmon open September 1 through November 30.

(i) Limit 6; only 2 adults may be retained.

(ii) Release wild Chinook ~~((and wild coho)).~~

**(127) North Nemah River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From Highway 101 Bridge upstream to the bridge on Nemah Valley Road:

(i) Open the first Saturday in June through March 31.

(ii) Release all fish, except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iii) From August 1 through November 30:

(A) Night closure in effect.

(B) Stationary gear restriction applies.

(C) Single-point barbless hooks are required.

(iv) Salmon open August 1 through January 31.

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

(c) From the bridge on Nemah Valley Road upstream to ~~((Nemah Hatchery barrier dam))~~ approximately 1.66 miles to the Hancock property line:

~~(i) ((The Nemah Hatchery Bridge upstream to Nemah Hatchery barrier dam: Closed.~~

~~(ii))~~ Open the first Saturday in June through July 31 and November 16 through March 31.

~~((iii))~~ (ii) Release all fish, except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

~~((iv))~~ (iii) From August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

~~((v))~~ (iv) Selective gear rules apply December 1 through March 31.

(d) From the Hancock property line upstream approximately 900 feet to Nemah Hatchery barrier dam:

(i) Closed from bridge at Nemah Hatchery upstream to Nemah Hatchery barrier dam, except open only for salmon for anglers that possess a senior's license (70 years old or older) from August 16 through November 15.

(ii) Open the first Saturday in June through July 31 and November 16 through March 31.

(iii) Release all fish, except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iv) From August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(v) Selective gear rules apply December 1 through March 31.

(vi) Salmon open only for anglers that possess a senior's license (70 years old or older) from August 16 through November 15.

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

(e) From the Nemah Hatchery barrier dam upstream to N-700 Road:

(i) Open the first Saturday in June through March 31.

(ii) Release all game fish, except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.

(iii) From August 16 through November 30:

(A) Night closure in effect.

- (B) Anti-snagging rule applies.
- (iv) Selective gear rules apply from December 1 through March 31:
- (v) Salmon open October 1 through January 31:
- (A) Limit 6; only 4 adults may be retained.
- (B) Release wild Chinook.
- ~~((e))~~ (f) From the N-700 Road upstream to Cruiser Creek:
- (i) Open the first Saturday in June through March 31.
- (ii) Release all fish, except mandatory retention of hatchery steelhead and may retain one 15 inch or longer cutthroat trout.
- (iii) From August 16 through November 30:
- (A) Night closure in effect.
- (B) Anti-snagging rule applies.
- (iv) Selective gear rules apply from December 1 through March 31.
- (128) North River (Grays Harbor/Pacific counties):**
- (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (b) From the Highway 105 Bridge to Salmon Creek (located approximately 2 miles upstream from Highway 101):
- (i) August 16 through November 30:
- (A) Night closure in effect.
- (B) Single-point barbless hooks are required.
- (ii) Open the first Saturday in June through the last day in February: Release all fish, except mandatory retention of hatchery steelhead.
- (iii) Salmon open October 1 through January 31:
- (A) Limit 6; only 4 adults may be retained.
- (B) Release wild Chinook.
- (c) From Salmon Creek (located approximately 2 miles upstream from Highway 101) to Fall River:
- (i) August 16 through November 30:
- (A) Night closure in effect.
- (B) Anti-snagging rule applies.
- (C) Single-point barbless hooks are required.
- (ii) Open the first Saturday in June through the last day in February: Release all fish, except mandatory retention of hatchery steelhead.
- (iii) Salmon open October 1 through January 31:
- (A) Limit 6; only 4 adults may be retained.
- (B) Release wild Chinook.
- (d) From Fall River to Raimie Creek:
- (i) Open the first Saturday in June through October 31.
- (ii) Selective gear rules apply.
- (iii) Release all fish, except mandatory retention of hatchery steelhead.
- (129) Owens Pond (Pacific County):** The first Saturday in June through October 31 season.
- (130) Palix River, including all forks (Pacific County):**
- (a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.
- (b) From the Highway 101 Bridge to the mouth of the Middle Fork:
- (i) August 16 through November 30:
- (A) Night closure in effect.
- (B) Single-point barbless hooks are required.

- (ii) Open the first Saturday in June through March 31: Release all fish, except mandatory retention of hatchery steelhead.
- (iii) Salmon:
- (A) Open September 1 through January 31.
- (B) Limit 6; only 4 adults may be retained.
- (C) Release wild Chinook.
- (c) From the confluence with the Middle Fork upstream and all forks, including South Fork Palix and Canon rivers:
- (i) August 16 through October 15:
- (A) Anti-snagging rule applies.
- (B) Night closure in effect.
- (ii) From the first Saturday in June through August 15, and from December 16 through March 31: Selective gear rules apply.
- (iii) Open the first Saturday in June through October 15, and from December 16 through March 31.
- (iv) Release all fish, except mandatory retention of hatchery steelhead.
- (131) Palmquist Creek (Clallam County), outside of Olympic National Park:**
- (a) Open the first Saturday in June through October 15.
- (b) Selective gear rules apply.
- (c) Trout:
- (i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (ii) Release kokanee.
- (132) Peabody Creek (Clallam County):** Open the first Saturday in June through October 31 to juvenile anglers only.
- (133) Penny Creek (Jefferson County):** Open the first Saturday in June through October 31.
- (134) Petroleum Creek (Clallam County):** From the Olympic National Park boundary upstream:
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (135) Pheasant Lake (Jefferson County):** Open the fourth Saturday in April through October 31.
- (136) Pilchuck Creek (Clallam County) (Sooes River tributary):**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (c) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.
- (137) Pioneer Creek (Grays Harbor County) (North River tributary):**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.
- (138) Pleasant Lake (Clallam County):** Trout: Kokanee minimum length 6 inches, maximum length 18 inches.
- (139) Porter Creek (Grays Harbor County) (Chehalis River tributary):**
- (a) Open the first Saturday in June through October 31.
- (b) Selective gear rules apply.

(140) **Promised Land Pond (Grays Harbor County):**  
Open the first Saturday in June through October 31.

(141) **Pysht River (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through January 31.

(c) Selective gear rules apply.

(d) From the first Saturday in June through October 31: Catch and release only.

(e) From November 1 through January 31: Trout minimum length 14 inches.

(142) **Rock Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(143) **Stearns Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(144) **Stillman Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31 from the mouth to water supply pipeline at Mill Creek.

(b) Selective gear rules apply.

(145) **Stowe Creek (Lewis County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(146) **Quigg Lake (Grays Harbor County):**

(a) Open the first Saturday in June through April 15.

(b) Trout: Minimum length 14 inches.

(c) Salmon:

(i) Open October 1 through January 31.

(ii) Limit 6 hatchery coho salmon; only 4 may be adult hatchery coho.

(147) **Quillayute River (Clallam County), outside of Olympic National Park:**

(a) Open (~~(year-round)~~) January 1 through September 30 and November 16 through December 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Release wild (unclipped) rainbow trout.

(d) It is unlawful to use anything other than one barbless hook.

(e) From May 1 through the Friday before the first Saturday in June: Release all fish except anglers may retain up to 2 hatchery steelhead.

(f) From the first Saturday in June through September 30 and November 16 through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(g) From April 1 through April 30: Trout minimum length 14 inches.

(h) From November ~~(+)~~ 16 through the last day in February: Anglers may retain one additional hatchery steelhead as part of the limit.

(i) Salmon: Open February 1 through September 30 and November 16 through November 30:

(i) From February 1 through August 31:

(A) Limit 6; only 2 adults may be retained.

(B) Release wild adult Chinook and wild adult coho.

(ii) From September 1 through September 30 and November 16 through November 30:

~~(A) Limit ((6; only 3 adults may be retained and)) 2;~~ only one may be a ~~((wild adult))~~ Chinook.

~~(B) Release wild coho.~~

(148) **Quinault River (Grays Harbor County):** From the mouth at the upper end of Quinault Lake upstream to the Olympic National Park boundary:

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Open the first Saturday in June through April 15.

(c) Release wild (unclipped) rainbow trout.

(d) It is unlawful to use anything other than one barbless hook.

(e) It is unlawful to use bait the first Saturday in June through September 30 and February 16 through April 15.

(f) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(g) Salmon open July 1 through November 30:

(i) From July 1 through September 30 limit 6 jack salmon only.

(ii) From October 1 through November 30:

(A) Limit 6; only 2 adults may be retained.

(B) Release sockeye and chum.

(149) **Quinn Creek (Clallam County), outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

(150) **Radar Ponds (Pacific County):** Salmon: Land-locked salmon rules apply.

(151) **Raimie Creek and all forks (Pacific County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(152) **Ripley Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(153) **Rock Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(154) **Rocky Brook (Jefferson County) (Dosewallips River tributary):** From the falls 1000 feet upstream of the mouth: Open the first Saturday in June through October 31.

(155) **Rue Creek, including West Fork (Pacific County) (South Fork Willapa tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(156) **Salmon Creek (~~(and all forks))~~ (Grays Harbor County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(157) Salmon Creek (Pacific County) (tributary of Naselle River):**

(a) Open the first Saturday in June through the last day in February.

(b) Selective gear rules apply.

(c) Release all fish except anglers may retain up to 2 hatchery steelhead.

**(158) Salmon River (Jefferson County), outside Olympic National Park and the Quinault Indian Reservation:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) Open the first Saturday in June through September 30 and December 1 through the last day in February:

(i) It is unlawful to use bait the first Saturday in June through August 31.

(ii) Release wild (unclipped) rainbow trout.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

~~((iii))~~ (iv) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(d) Salmon season open September 1 through ~~((November))~~ September 30:

(i) Limit ~~((6))~~ 2; only ~~((3 adults may be retained, no more than 2 adults))~~ one may be Chinook ~~((, and only one Chinook may be wild))~~.

(ii) Release wild ~~((adult))~~ coho ~~((salmon))~~.

**(159) Salt Creek (Clallam County):** From the mouth to the bridge on Highway 112:

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) Open the first Saturday in June through January 31.

(c) Selective gear rules apply.

(d) First Saturday in June through October 31: Catch and release only, except mandatory retention of hatchery steelhead.

(e) November 1 through January 31: Anglers may retain up to 2 hatchery steelhead.

**(160) Sand Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(161) Sandyside Lake (Jefferson County):** Open the fourth Saturday in April through October 31.

**(162) Satsop Lakes (Grays Harbor County):** Open the fourth Saturday in April through October 31.

**(163) Satsop River and East Fork (Grays Harbor County):**

(a) From the mouth to the bridge at Schafer State Park:

(i) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31:

Trout minimum length 14 inches, except it is permissible to

retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Salmon open September 16 through ~~((January))~~ December 31:

~~((A))~~ ~~((From September 16 through November 30:~~

~~((H))~~ Limit 6; only ~~((3))~~ one adult~~((s))~~ may be retained.

~~((HH))~~ ~~((B))~~ Release wild adult Chinook~~((-~~

~~((B))~~ ~~((From December 1 through January 31:~~

~~((I))~~ Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

~~((H))~~ Release Chinook~~((, and wild coho.~~

(b) From the bridge at Schafer State Park upstream to 400 feet below Bingham Creek Hatchery barrier dam:

(i) Open the first Saturday in June through October 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Open August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(c) From 400 feet downstream of the Bingham Creek Hatchery barrier dam upstream to the dam:

(i) Open within posted markers to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card.

(ii) Night closure in effect.

(ii) From August 16 through October 31: Single-point barbless hooks are required.

(iv) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(v) Salmon open September 16 through ~~((January))~~ December 31:

~~((A))~~ ~~((From September 16 through November 30:~~

~~((H))~~ Limit 6; only ~~((3))~~ one adult~~((s))~~ may be retained.

~~((HH))~~ ~~((B))~~ Release wild adult Chinook~~((-~~

~~((B))~~ ~~((From December 1 through January 31:~~

~~((I))~~ Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.

~~((H))~~ Release Chinook~~((, and wild coho.~~

(d) From the Bingham Creek Hatchery dam upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) August 16 through October 31: Night closure in effect.

**(164) Satsop River, Middle Fork (Turnow Branch):**

(a) From the mouth to Cougar Smith Road:

(i) From August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From Cougar Smith Road upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) August 16 through October 31:

(A) Night closure in effect.

(B) Anti-snagging rule applies.

**(165) Satsop River, West Fork:**

(a) From the mouth to Cougar Smith Road:

(i) August 16 through November 30:

(A) Anti-snagging rule applies.

(B) Night closure in effect.

(ii) Open the first Saturday in June through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From Cougar Smith Road to USFS 2260 Road Bridge at Spoon Creek:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) August 16 through October 31: Night closure in effect.

(c) From USFS 2260 Road Bridge at Spoon Creek upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Eastern brook trout: No limit; no minimum size. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing.

**(166) Schafer Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) From the mouth to USFS 22 Road:

(b) Open the first Saturday in June through October 31.

(c) Selective gear rules apply.

**(167) Sekiu River (Clallam County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the forks:

(i) Open the first Saturday in June through January 31.

(ii) From the first Saturday in June through October 31: Selective gear rules apply.

(iii) November 1 through January 31: Catch and release only, except mandatory retention of hatchery steelhead.

(iv) Trout: Minimum length 14 inches.

(c) From the forks upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Catch and release only, except mandatory hatchery steelhead retention applies.

**(168) Shine Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(169) **Shye Lake (Grays Harbor County):** Open the first Saturday in June through October 31.

**(170) Siebert Creek (Clallam County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

**(171) Silent Lake (Jefferson County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(172) Sitkum River (Clallam County) (Calawah River tributary):**

(a) Open the first Saturday in June through ~~((October))~~ August 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

**(173) Siwash Creek (Clallam County), outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

**(174) Skookumchuck River (Thurston County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to 100 feet below the outlet of the ~~((PP&L/WDFW))~~ TransAlta/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam:

(i) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through April 30:

(A) From the first Saturday in June through March 31, trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From April 1 through April 30: Trout minimum length 14 inches.

(iii) Salmon open October 1 through ~~((the last day in February))~~ December 31:

~~((A))~~ ~~((From October 1 through November 30:~~

~~((H))~~ Limit 6; only ~~((3))~~ one adult~~((s))~~ may be retained.

~~((H))~~ ~~((B))~~ Release Chinook, wild coho, and chum.

~~((B))~~ ~~((From December 1 through the last day in February:~~

~~((H))~~ Limit 6; only 2 adults may be retained and only one may be a wild adult coho.

~~((H))~~ Release Chinook and chum.)

(c) From Skookumchuck Reservoir upstream, selective gear rules apply.

**(175) Smith Creek (near North River) (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the Highway 101 Bridge:

(i) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through the last day in February: Release all fish except anglers may retain up to 2 hatchery steelhead.

- (iii) Salmon open October 1 through December 31:  
 (A) ~~((From October 1 through November 30:  
 (H))~~ Limit 6; only 3 adults may be retained ~~((and only 2  
 may be wild adult coho)).~~  
~~((H))~~ (B) Release wild Chinook.  
~~((B) From December 1 through December 31:  
 (H) Limit 6; only 2 adults may be retained, and only one  
 may be a wild adult coho.~~  
 (H) Release wild Chinook.)  
 (c) From the Highway 101 Bridge upstream:  
 (i) Selective gear rules apply.  
 (ii) Open the first Saturday in June through the last day  
 in February: Release all fish except anglers may retain up to  
 2 hatchery steelhead.

**(176) Smith Creek (Pacific County) (Chehalis River  
 tributary):**

- (a) Mandatory hatchery steelhead retention. No catch  
 and release of hatchery steelhead.  
 (b) Open the first Saturday in June through October 31.  
 (c) Selective gear rules apply.

**(177) Snahapish River (Jefferson County) (Clearwater  
 River tributary):**

- (a) Open the first Saturday in June through ~~((October))  
August 31.~~  
 (b) It is unlawful to fish from a floating device equipped  
 with an internal combustion motor.  
 (c) It is unlawful to use anything other than one barbless  
 hook.  
 (d) It is unlawful to use bait.  
 (e) Trout:  
 (i) Minimum length 14 inches, except it is permissible to  
 retain hatchery (adipose clipped) trout less than 14 inches in  
 length as part of the limit.

- (ii) Release wild (unclipped) rainbow trout.

**(178) Sol Duc River (Clallam County):**

- (a) It is unlawful to fish from a floating device equipped  
 with an internal combustion motor.  
 (b) It is unlawful to use anything other than one barbless  
 hook.

- (c) Release wild (unclipped) rainbow trout.

- (d) ~~((Open year round))~~ From the mouth to the concrete  
 pump station at the Sol Duc Hatchery: Open July 1 through  
 September 30 and November 16 through June 30.

- (i) It is unlawful to use bait ~~((the first Saturday in June))  
July 1 through September 30 and February 16 through April  
 ((+5)) 30.~~

- (ii) May 1 through the Friday before the first Saturday in  
 June: Release all fish except anglers may retain up to 2 hatchery  
 steelhead.

- (iii) From the first Saturday in June through September  
 30 and November 16 through April 30:

- (A) The first Saturday in June through September 30 and  
 November 16 through March 31: Trout minimum length 14  
 inches, except it is permissible to retain hatchery (adipose  
 clipped) trout less than 14 inches in length as part of the limit.

- (B) April 1 through April 30: Trout minimum length 14  
 inches.

- (C) November ~~((+))~~ 16 through the last day in February:  
 Anglers may retain one additional hatchery steelhead as part  
 of the trout limit.

- (iv) Salmon open February 1 through September 30 and  
 November 16 through November 30:

- (A) From February 1 through August 31:

- (I) Limit 6; only 2 adults may be retained.

- (II) Release wild adult Chinook and wild adult coho.

- ~~((III) May 1 through August 31: Closed from the Sol  
 Duc Hatchery outlet creek upstream to the old trestle pil-  
 ings.))~~

- (B) From September 1 through September 30 and  
 November 16 through November 30: Limit ~~((6; only 3 adult  
 salmon may be retained, and))~~ 2; only one may be a wild  
 adult. Release wild coho.

- (e) From the concrete pump station at Sol Duc Hatchery  
 to the Highway 101 Bridge upstream of Klahowya Camp-  
 ground:

- (i) Open the first Saturday in June through August 31  
 and December 1 through April 30.

- (ii) It is unlawful to use bait.

- (iii) Trout: Minimum length 14 inches, except it is per-  
 missible to retain hatchery (adipose clipped) trout less than  
 14 inches in length as part of the limit.

- (f) From the Highway 101 Bridge upstream of Klahowya  
 Campground to the Olympic National Park boundary:

- (i) Open the first Saturday in June through ~~((October))  
August 31.~~

- (ii) Release all fish, except anglers may retain up to 2  
 hatchery steelhead.

- (iii) It is unlawful to use bait.

**(179) Solberg Creek (Clallam County) (Big River  
 tributary):**

- (a) Open the first Saturday in June through October 15.

- (b) Selective gear rules apply.

- (c) Trout:

- (i) Minimum length 14 inches, except it is permissible to  
 retain hatchery (adipose clipped) trout less than 14 inches in  
 length as part of the limit.

- (ii) Release kokanee.

**(180) Solleks River (Jefferson County) (Clearwater  
 River tributary):**

- (a) Open the first Saturday in June through ~~((October))  
August 31.~~

- (b) It is unlawful to fish from a floating device equipped  
 with an internal combustion motor.

- (c) It is unlawful to use anything other than one barbless  
 hook.

- (d) It is unlawful to use bait.

- (e) Trout:

- (i) Minimum length 14 inches, except it is permissible to  
 retain hatchery (adipose clipped) trout less than 14 inches in  
 length as part of the limit.

- (ii) Release wild (unclipped) rainbow trout.

**(181) Sooes River (Tsoo-Yess River) (Clallam  
 County), outside of Makah Indian Reservation:**

- (a) Mandatory hatchery steelhead retention. No catch  
 and release of hatchery steelhead.

- (b) Open the first Saturday in June through the last day in  
 February.

- (c) From the first Saturday in June through October 31:

- (i) Selective gear rules apply.



(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(d) Open November 1 through the last day in February: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(182) **South Bend Mill Pond (Pacific County):** Open to juvenile anglers only.

(183) **South Creek (Clallam County), outside of Olympic National Park:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

(184) **South Nemah River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (Lynn Point, 117 degrees true to opposite shore) to the confluence with Middle Nemah River:

(i) September 1 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31: Release all fish except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon:

(A) Open September 1 through January 31.

(B) Limit 6; only 4 adults may be retained.

(C) Release wild Chinook.

~~((b))~~ (c) From the confluence with the Middle Nemah River upstream to the second Highway 101 Bridge crossing:

(i) Open the first Saturday in June through March 31.

(ii) Selective gear rules apply.

(iii) Release all fish except anglers may retain up to 2 hatchery steelhead.

(185) **Stevens Creek (Grays Harbor County):**

(a) From the mouth to the Highway 101 Bridge:

(i) Closed from the WDFW hatchery outlet downstream 400 feet.

(ii) Open the first Saturday in June through September 30 and December 1 through the last day in February.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(b) From the Highway 101 Bridge upstream to the Newbury Creek Road Bridge:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(186) **Sutherland Lake (Clallam County):**

(a) Open the fourth Saturday in April through October 31.

(b) Trout: Minimum length 6 inches and maximum length 18 inches.

(187) **Sylvia Creek (Grays Harbor County) (Wynoochee River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(188) **Sylvia Lake (Grays Harbor County):** It is unlawful to retain more than 2 trout over 15 inches in length.

(189) **Tarboo Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(190) **Tarboo Lake (Jefferson County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(191) **Teal Lake (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Selective gear rules apply.

(c) Trout: Limit one.

(192) **Thorndyke Creek (Jefferson County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(193) **Thunder Creek (Clallam County) (Tributary to East Fork Dickey River):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release wild (unclipped) rainbow trout.

(e) From mouth to D2400 Road: Game fish season open the first Saturday in June through August 31 and December 1 through April 30.

(f) From D2400 Road upstream: Open the first Saturday in June through ~~((October))~~ August 31.

(194) **Trap Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(195) **Trout Creek (Clallam County) (Big River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

(196) **Twin Lake (Jefferson County):** Open the fourth Saturday in April through October 31.

(197) **Umbrella Creek (Clallam County), outside Olympic National Park, including tributaries:**

(a) Open the first Saturday in June through October 15.

(b) Selective gear rules apply.

(c) Trout:

(i) Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Release kokanee.

(198) **Valley Creek (Clallam County):** Open the first Saturday in June through October 31 to juvenile anglers only.

(199) **Vance Creek (Grays Harbor County) (Chehalis River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(200) **Vance Creek/Elma Ponds (Grays Harbor County), Pond One (Bowers Lake) and Pond Two (Lake Ines):**

(a) Pond One/Bowers Lake is open only to juvenile anglers, seniors, and anglers with a disability who possess a designated harvester companion card.

(b) Open the fourth Saturday in April through November 30:

(i) Anglers may not retain more than 2 trout over 15 inches in length.

(ii) Landlocked salmon rules apply.

(201) **Van Winkle Creek (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) August 16 through November 30:

(i) Night closure in effect.

(ii) Anti-snagging rule applies.

(c) From the mouth to 400 feet below the outlet of Lake Aberdeen Hatchery:

(i) Open the first Saturday in June through January 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(ii) Salmon open September ((+) 16 through January 31:

(A) Limit 6; only ((3) one adult((s)) may be retained.

(B) Release Chinook and wild coho.

(d) From Lake Aberdeen upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(202) **Vesta Creek and all forks (Grays Harbor County) (North River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(203) **Ward Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(204) **Wentworth Lake (Clallam County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(205) **West Twin River (Clallam County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

(c) Catch and release only.

(206) **Wildcat Creek (Grays Harbor County) (Cloquallum Creek tributary):**

(a) Open from the mouth to the confluence of the Middle and East Forks from the first Saturday in June through October 31.

(b) Selective gear rules apply.

(207) **Wildcat Creek, East Fork (Grays Harbor County) (Cloquallum Creek tributary):**

(a) Open from the mouth to the Highway 108 Bridge (Simpson Avenue, in the town of McClery) from the first Saturday in June through October 31.

(b) Selective gear rules apply.

(208) **Willapa River (Pacific County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth (city of South Bend boat launch) to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek:

(i) From August 1 through November 30:

(A) It is unlawful to fish from a floating device from the second bridge on Camp One Road upstream to the mouth of Mill Creek (approximately 0.5 miles).

(B) Night closure in effect.

(C) Single-point barbless hooks are required.

(D) Stationary gear restriction applies, except from the mouth of the Willapa River to the WDFW access site at the mouth of Ward/Wilson creeks.

(ii) From the City of South Bend boat launch upstream to the second bridge on Camp One Road: Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the first Saturday in June through March 31; release all fish except anglers may retain up to 2 hatchery steelhead.

(iv) Salmon open August 1 through January 31:

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

(c) From Highway 6 Bridge to Fork Creek:

(i) From ((~~September~~)) August 16 through November 30:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction applies.

(ii) Open the first Saturday in June through July 15 and from ((~~September~~)) August 16 through March 31: Release all fish, except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon open ((~~September~~)) August 16 through ((~~January 31~~)) September 15:

(A) Limit 6; only ((4)) 2 adults may be retained.

(B) Release wild Chinook.

(iv) Salmon open September 16 through January 31:

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

(d) From Fork Creek upstream to the Highway 6 Bridge near the town of Lebam:

(i) From August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through October 31: Release all fish except anglers may retain up to 2 hatchery steelhead.

(iii) Salmon open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained and only two may be wild adult coho.

(B) Release wild Chinook.

(e) From the Highway 6 Bridge near the town of Lebam upstream:

(i) From August 16 through October 31:

(A) Night closure in effect.

(B) Single-point barbless hooks are required.

(ii) Open the first Saturday in June through October 31:

Release all fish except anglers may retain up to 2 hatchery steelhead.

**(209) Willapa River, South Fork (Pacific County):**

From the mouth to the bridge on Pehl Road:

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the falls/fish ladder downstream 400 feet in Section 6, Township 13 North, and Range 8 West: Closed.

(c) Selective gear rules apply from the first Saturday in June through July 31.

(d) From August 1 through November 30:

(i) Night closure in effect.

(ii) Anti-snagging rule applies.

(iii) Barbless hooks are required.

(e) Open the first Saturday in June through the last day in February: Release all fish except anglers may retain up to 2 hatchery steelhead.

(f) Salmon open August 1 through January 31:

(i) Limit 6; only 3 adults may be retained(~~(, and only one may be wild adult coho).~~)

(ii) Release wild Chinook.

(g) From Pehl Road upstream:

(i) Open the first Saturday in June through the last day in February.

(ii) Release all fish except anglers may retain up to 2 hatchery steelhead.

**(210) Williams Creek (Pacific County) (North Nemah River tributary):**

(a) Open the first Saturday in June through October 15.

(b) Release all fish except anglers may retain up to two hatchery steelhead.

**(211) Wilson Creek (Pacific County) (Willapa River tributary):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(212) Wilson Creek, North Fork (Pacific County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(213) Wishkah River (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From August 16 through November 30: Single-point barbless hooks are required.

(c) From the mouth to West Fork:

(i) Open the first Saturday in June through the last day in February.

(ii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon open (~~(September 16))~~ October 1 through ~~(January 31)~~ December 31:

(A) (~~From September 16 through November 30:~~

~~(H))~~ Limit 6; only ~~((3))~~ one adult(~~(s))~~ may be retained(~~(, and only 2 may be wild adult coho)).~~)

~~((H))~~ (B) Release Chinook(~~(-~~

~~(B) From December 1 through January 31:~~

~~(I) Limit 6; only 2 adults may be retained, and only one may be a wild adult coho.~~

~~(H) Release Chinook))~~ and wild coho.

(d) From the mouth of West Fork to 200 feet below the weir at the Wishkah Rearing Ponds:

(i) From 150 feet upstream to 150 feet downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary): Open only to anglers with disabilities who permanently use a wheelchair and have a designated harvester companion card.

(ii) Open the first Saturday in June through the last day in February.

(iii) Trout: Minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iv) Salmon open (~~(September 16))~~ October 1 through ~~(January 31)~~ December 31:

(A) (~~From September 16 through November 30:~~

~~(H))~~ Limit 6; only ~~((3))~~ one adult(~~(s))~~ may be retained(~~(, and only 2 may be wild adult coho)).~~)

~~((H))~~ (B) Release Chinook(~~(-~~

~~(B) From December 1 through January 31:~~

~~(I) Limit 6; only 2 adults may be retained and only one may be a wild adult coho.~~

~~(H) Release Chinook))~~ and wild coho.

(e) From the weir upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

**(214) Wishkah River, East and West forks (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Selective gear rules apply.

**(215) Wynoochee River (Grays Harbor County):**

(a) Mandatory hatchery steelhead retention. No catch and release of hatchery steelhead.

(b) From the mouth to the WDFW White Bridge Access Site:

(i) From August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(iii) Salmon open (~~(September 16))~~ October 1 through ~~(January 31)~~ November 30.

(A) Limit 6; only ~~((2))~~ one adult(~~(s))~~ may be retained.

(B) Release Chinook and wild coho.

(c) From the WDFW White Bridge Access Site to the 7400 line bridge:

(i) From August 16 through November 30: Single-point barbless hooks are required.

(ii) From September 16 through November 30: It is unlawful to use bait.

(iii) Open the first Saturday in June through March 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(d) From the 7400 line bridge to 400 feet below Wynoochee Dam, including the confluence of the reservoir upstream to Wynoochee Falls:

(i) Closed from 400 feet downstream of Wynoochee Dam and from the barrier dam near Grisdale.

(ii) Open the first Saturday in June through October 31 and from December 1 through March 31:

(A) From the first Saturday in June through October 31: Trout minimum length 14 inches, except it is permissible to retain hatchery (adipose clipped) trout less than 14 inches in length as part of the limit.

(B) From December 1 through March 31:

(I) Selective gear rules apply.

(II) Release all fish, except anglers may retain up to 2 hatchery steelhead.

(e) From Wynoochee Falls upstream:

(i) Open the first Saturday in June through October 31.

(ii) Selective gear rules apply.

(iii) Eastern brook trout: No limit. Eastern brook trout do not count toward the trout limit. However, once the limit of trout other than eastern brook trout is reached, the limit for all species of trout is reached and the angler must cease fishing.

(216) **Wynoochee Reservoir (Grays Harbor County):**

(a) Open the first Saturday in June through October 31.

(b) Trout: Minimum length 12 inches.

(c) Landlocked salmon rules apply.

#### WSR 16-11-105

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed May 18, 2016, 10:21 a.m.]

Continuance of WSR 16-08-116.

Preproposal statement of inquiry was filed as WSR 16-01-201.

Title of Rule and Other Identifying Information: WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas, the agency is proposing to amend the apple maggot quarantine by adding the southeast portion of Lincoln County to the area under quarantine.

Hearing Location(s): Lincoln County Public Works Building, 27234 SR 25 North, Main Conference Room, Davenport, WA 99122, on June 23, 2016, at 1:00 p.m.

Date of Intended Adoption: July 7, 2016.

Submit Written Comments to: Henri Gonzales, Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, e-mail [wsdarulescomments@agr.wa.gov](mailto:wsdarulescomments@agr.wa.gov), fax (360) 902-2092, by June 23, 2016.

Assistance for Persons with Disabilities: Contact Deanna Painter by June 16, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to add the southeast portion of Lincoln County to the area under quarantine for apple maggot. Changes to the existing rule may better prevent or minimize possible movement of apple maggot from infested areas into uninfested areas, secure access to international and interstate markets, and protect the commercial tree fruit industry from an economically significant pest by quarantine modification.

Reasons Supporting Proposal: The apple maggot is an invasive insect pest native to eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its larval development stage it can cause extensive damage to fruit. It is economically significant to the Washington apple crop not only due to its ability to cause physical crop damage, but also because fruit from demonstrated apple maggot free areas or locations has greater market access for international shipments.

Data collected from the 2015 apple maggot survey provides evidence that the state's apple maggot population has altered its range. Modification of the existing quarantine is necessary in order to respond to this change.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041, and chapter 34.05 RCW.

Statute Being Implemented: RCW 17.24.011, 17.24.041.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: James Marra, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-2071.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule imposes no new regulatory requirements and no new costs on any tree fruit producer. This proposed change does not add additional commercial fruit orchards to the hundred plus orchards in the already existing quarantine area. In addition, neglecting to change the existing rule may result in loss of markets and potential exports for the Washington apple crop.

There are no small businesses operating solid waste facilities or solid waste haulers impacted by this proposed rule. The solid waste facilities impacted by the proposed rule are operated by governmental entities. The hauler impacted by the proposed rule is operated by a large commercial company that does not meet the definition of a small business under RCW 19.85.020(3).

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

May 18, 2016

Brad White

Assistant Director

#### WSR 16-11-107

#### PROPOSED RULES

#### SUPERINTENDENT OF

#### PUBLIC INSTRUCTION

[Filed May 18, 2016, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-132.

Title of Rule and Other Identifying Information: WAC 392-140-972 Finance—Special allocations—Salary bonus

for teachers and other certificated staff who hold current certification by the national board.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), 600 Washington Street S.E., Policy Conference Room, Olympia, WA 98501, on June 22, 2016, at 1:30 p.m.

Date of Intended Adoption: June 24, 2016.

Submit Written Comments to: Ross Bunda, OSPI, P.O. Box 47200, Olympia, WA 98504, e-mail Ross.Bunda@k12.wa.us, fax (360) 664-3638, by June 22, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by June 15, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rule revisions provide "housekeeping" updates regarding which staff in public schools are eligible for the national board bonus.

Statutory Authority for Adoption: RCW 28A.150.290(1) and 28A.405.415.

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

Name of Agency Personnel Responsible for Drafting: Ross Bunda, OSPI, (360) 725-6308; Implementation: T. J. Kelly, OSPI, (360) 725-6301; and Enforcement: JoLynn Berge, OSPI, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable, no small business impact; no school district fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

May 18, 2016

Randy Dorn  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 14-04-002, filed 1/22/14, effective 2/22/14)

**WAC 392-140-972 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Definitions.** As used in this chapter, "teachers and other certificated instructional staff" that are eligible for the national board bonus includes staff assigned to one of the following duties as defined in the *S-275 Personnel Reporting Handbook*:

- (1) Elementary homeroom teacher, duty root 31;
- (2) Secondary teacher, duty root 32;
- (3) Other teacher, duty root 33;
- (4) Elementary specialist teacher, duty root 34;
- (5) Other support personnel, duty root 40;
- ~~((5))~~ (6) Library media specialist, duty root 41;
- ~~((6))~~ (7) Counselor, duty root 42;
- ~~((7))~~ (8) Occupational therapist, duty root 43;
- ~~((8))~~ (9) Social worker, duty root 44;
- ~~((9))~~ (10) Speech-language pathologist or audiologist, duty root 45;
- ~~((10))~~ (11) Psychologist, duty root 46;
- ~~((11))~~ (12) Nurse, duty root 47;

- ~~((12))~~ (13) Physical therapist, duty root 48;
- ~~((13))~~ (14) Reading resource specialist, duty root 49;
- ~~((14))~~ (15) Long-term substitute teacher, duty root 52;
- ~~((15))~~ (16) Contractor teacher, duty root 63;
- ~~((16))~~ (17) Contractor educational staff associate, duty root 64; and excludes staff not assigned to the above duties. This excludes staff whose duties consist entirely of the following:
- ~~((17))~~ (18) Superintendent, duty root 11;
- ~~((18))~~ (19) Deputy/assistant superintendent, duty root 12;
- ~~((19))~~ (20) Other district administrator, duty root 13;
- ~~((20))~~ (21) Elementary principal, duty root 21;
- ~~((21))~~ (22) Elementary principal, duty root 22;
- ~~((22))~~ (23) Secondary principal, duty root 23;
- ~~((23))~~ (24) Secondary vice-principal, duty root 24;
- ~~((24))~~ (25) Other school administrator, duty root 25;
- ~~((25))~~ (26) Extracurricular, duty root 51;
- ~~((26))~~ (27) Certificated on leave, duty root 61; or
- ~~((27))~~ (28) Classified staff, duty roots 90 through 99.

## WSR 16-11-108

### PROPOSED RULES

### SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed May 18, 2016, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-124.

Title of Rule and Other Identifying Information: WAC 392-121-210 and 392-121-217, Finance—General apportionment—Certificated instructional staff.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), 600 Washington Street S.E., Policy Conference Room, Olympia, WA 98501, on June 22, 2016, at 1:15 p.m.

Date of Intended Adoption: June 24, 2016.

Submit Written Comments to: Ross Bunda, OSPI, P.O. Box 47200, Olympia, WA 98504, e-mail Ross.Bunda@k12.wa.us, fax (360) 664-3638, by June 22, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by June 15, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rule revisions provide "housekeeping" updates regarding the definition of basic education certificated instructional staff and institutional education certificated instructional staff.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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

Name of Agency Personnel Responsible for Drafting: Ross Bunda, OSPI, (360) 725-6308; Implementation: T. J. Kelly, OSPI, (360) 725-6301; and Enforcement: JoLynn Berge, OSPI, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable, no small business impact; no school district fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

May 18, 2016  
Randy Dorn  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-121-210 Definition—Basic education certificated instructional employee.** As used in this chapter, "basic education certificated instructional employee" means a district or charter school certificated instructional employee or a contractor certificated instructional employee assigned in whole or in part to the following programs as defined in the accounting manual for public school districts in the state of Washington:

- (1) 01 Basic Education;
- (2) 02 Basic Education-Alternative Learning Experience;
- (3) 03 Basic Education-Dropout Reengagement;
- (4) 31 Vocational, Basic, State;
- ~~((4))~~ (5) 34 Middle School Career and Technical Education-State;
- ~~((5))~~ (6) 45 Skills Center, Basic, State; and
- ~~((6))~~ (7) 97 District-wide Support.

AMENDATORY SECTION (Amending WSR 11-21-065, filed 10/17/11, effective 11/17/11)

**WAC 392-121-217 Definition—Institutional education certificated instructional employee—Full-time equivalent institutional education certificated instructional staff.** As used in this chapter, "institutional education certificated instructional employee" and "full-time equivalent institution education certificated instructional staff" means a certificated instructional employee and full-time equivalent of certificated instructional employees assigned to the following school district programs:

- (1) 26 Special Education-Institutions-State;
  - (2) 56 State Institutions, Centers and Homes-Delinquent;
  - (3) 59 Institutions-Juveniles in Adult Jails;
- or educational service district programs:
- (4) 42 State Institutions;
  - (5) 43 State Institutions-Juveniles in Adult Jails.

**WSR 16-11-109**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed May 18, 2016, 10:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-133.

Title of Rule and Other Identifying Information: WAC 392-121-124 Full-time equivalent enrollment for work based learning.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), 600 Washington Street S.E., Policy Conference Room, Olympia, WA 98501, on June 22, 2016, at 1:00 p.m.

Date of Intended Adoption: June 24, 2016.

Submit Written Comments to: Becky McLean, OSPI, P.O. Box 47200, Olympia, WA 98504, e-mail becky.mclean@k12.wa.us, fax (360) 664-3683, by June 22, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by June 15, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 392-121-124 requires updating to clarify that work based learning provided by a state-approved skill center program is limited to preparatory work based learning.

Statutory Authority for Adoption: RCW 28A.150.305.

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

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting: Becky McLean, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: T. J. Kelly, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301; and Enforcement: JoLynn Berge, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable, no small business impact; no school district fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

May 18, 2016  
Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 16-06-124, filed 3/2/16, effective 4/2/16)

**WAC 392-121-124 Full-time equivalent enrollment for work based learning.** For work based learning provided pursuant to WAC 392-410-315 or by charter schools, a student's full-time equivalent shall be determined as follows:

- (1) For cooperative work based learning experience, in accordance with WAC 392-410-315 (1)(g), divide the stu-

dent's hours of work experience for the month by two hundred; for example: Forty hours of cooperative work experience equals two tenths of a full-time equivalent ( $40 \div 200 = 0.20$ ). For instructional work based learning experience, in accordance with WAC 392-410-315 (1)(f) and 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty hours of instructional work experience equals two tenths of a full-time equivalent ( $20 \div 100 = 0.20$ ). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district or charter school for audit purposes.

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) Preparatory work based learning provided as part of a state-approved skill center program qualifies for enhanced skill center vocational funding and may be included in determining a student's skill center vocational full-time equivalent enrollment.

(5) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

(6) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC 392-410-315, are completed.

**WSR 16-11-112**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 15-08—Filed May 18, 2016, 11:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-19-052.

Title of Rule and Other Identifying Information: Ecology is proposing to amend the oil spill contingency plan rule (chapter 173-182 WAC). This rule making will:

- Update definitions to ensure clarity and consistency with existing federal regulations.
- Clarify the worst case discharge calculation for pipelines.
- Create a new pipeline geographic information planning standard which will use geo-referenced data to support

preparedness planning and initial decision making during pipeline oil spills.

- Enhance our existing air monitoring requirements for pipelines to ensure safety of oil spill responders and the general public.
- Enhance our spills to ground requirements to ensure rapid aggressive and well-coordinated responses to spills to ground which could impact ground water.
- Update our pipeline planning standard requirements to ensure equipment required is appropriate for the environment pipelines may impact.
- Expand the best achievable protection (BAP) review cycle to facilities and pipelines.
- Other changes to clarify language and make any corrections needed.

Hearing Location(s): Ecology is holding three public hearings on this rule proposal, one each in Spokane, Everett, and Vancouver, and one via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access. For more information about the public hearings, visit the following web site <http://www.ecy.wa.gov/programs/spills/rules/1106inv.html>.

Date	Time	Format	Location
Wednesday June 29, 2016	3:00 p.m.	In Person	Holiday Inn Downtown Everett Ballroom 1 3105 Pine Street Everett, WA 98201
Thursday June 30, 2016	2:00 p.m.	In Person and Webinar	Clark College Gaiser Student Center 1933 Fort Vancouver Way Vancouver, WA 98663 Comments will be accepted in-person (written and oral) and during the webinar (oral only) via phone (800) 704-9804, Participant Code: 81723592#. To join the webinar click on the following link for more information and instructions <a href="http://www.ecy.wa.gov/programs/spills/rules/Webinar1106.pdf">http://www.ecy.wa.gov/programs/spills/rules/Webinar1106.pdf</a> .
Thursday July 7, 2016	1:00 p.m.	In Person	Ramada at Spokane International Airport Lower Level Ballroom 8909 West Airport Drive Spokane, WA 99224

Date of Intended Adoption: October 12, 2016.

Submit Written Comments to: Sonja Larson, Department of Ecology, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600, e-mail [Sonja.Larson@ecy.wa.gov](mailto:Sonja.Larson@ecy.wa.gov), fax (360) 407-7288, by July 22, 2016; online submitted through an online comment tool at <https://www.piersystem.com/go/doc/5779/2804978/>.

Assistance for Persons with Disabilities: Contact spills program reception at (360) 407-7455, by June 22, 2016, TTY (877) 833-6341 or 711 relay service.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amended regulations enhance oil spill contingency plan requirements for hazardous liquids pipelines required to submit oil spill contingency plans under chapter 90.56 RCW, and for the primary response contractors that support the implementation of the pipeline plans. The amendment of this rule will require pipelines to update their contingency plans and submit them for ecology approval.

Reasons Supporting Proposal: The rule was last updated for pipelines in 2006. At that time the pipeline planning standards were developed to align with the marine terminal standards. In Washington, pipelines exist in both marine and inland areas. After several years of implementing the rule we have identified the need to update our standards to ensure that required oil spill response equipment is appropriate for the pipeline risks and operating environments (marine and inland). We also feel the need to better incorporate and embrace available technology and geo-referenced data in our planning requirements.

Statutory Authority for Adoption: Chapter 90.56 RCW.

Statute Being Implemented: Chapter 90.56 RCW.

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

Name of Proponent: Department of ecology, spill prevention, preparedness and response program (spills program), governmental.

Name of Agency Personnel Responsible for Drafting: Sonja Larson, Lacey, Washington, (360) 407-6682; Implementation and Enforcement: Ecology Spills Program, Lacey, Washington, (360) 407-7447.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

**Executive Summary:** Based on research and analysis required by the Regulatory Fairness Act (RFA), RCW 19.85.070, ecology has determined the proposed rule amendments (chapter 173-182 WAC, Oil spill contingency plan) are likely to have a disproportionate impact on small business. Therefore, ecology included disproportion-minimizing features in the rule where it is legal and feasible to do so.

This small business economic impact statement (SBEIS) presents the:

- Background for the analysis of impacts on small business relative to other businesses.
- Results of the analysis.
- Cost-mitigating action taken by ecology.
- Expected net impact on jobs statewide.

This document is intended to be read with the associated cost-benefit analysis (Ecology Publication #16-08-015), which contains more in-depth discussion of the analyses, as well as references.

A small business is defined by RFA as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment - the way oil spill contingency planning would be regulated in the absence of the rule amendments. The SBEIS only considers costs to "businesses in an industry" in Washington state.

While several of the covered pipelines are operated by businesses with many thousands of employees (at the parent company level), at least one has indicated that they currently employ less than fifty employees. Compliance costs for the proposed rule amendments do not vary by business size. This inherently causes disproportional impacts, with small firms (firms with less than fifty employees) facing larger compliance costs on a per-employee basis than larger firms.

We conclude that the proposed rule is likely to have disproportionate impacts on small businesses, and must therefore include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

Ecology included elements in the proposed rule amendments that reduce costs, but may be available to small and large businesses. Elements of the proposed rule amendments that reduce compliance costs include:

- Allowing phase-in for plan holders allows them to update plans for new requirements when they submit normally scheduled updates in some cases.
- By providing standards specifically for tank farms, it allows them to use smaller storage volumes than would have otherwise been prescribed. These higher volumes may not be necessary in some of the inland environments tank farms are located in.

Ecology also has implementation plans that include provision of many of the spreadsheets and forms covered pipelines would need to use.

The proposed rule amendments will result in transfers of money within and between industries; plan holders and primary response contractors (PRC) complying with the rule amendments will pay employees or businesses providing equipment or services.

Assuming the work done to meet the proposed requirements is completed internally, the Washington state economy could experience a net loss of two to three jobs over twenty years, as compliance costs incurred internally are not fully offset by transfers of funds to entities providing response assets and personnel.

**Chapter 1 - Introduction and Background:** Based on research and analysis required by RFA, RCW 19.85.070, ecology has determined the proposed rule amendments (chapter 173-182 WAC, Oil spill contingency plan) are likely to have a disproportionate impact on small business. Therefore, ecology included disproportion-minimizing features in the rule where it is legal and feasible to do so.

This SBEIS presents the:

- Background for the analysis of impacts on small business relative to other businesses.
- Results of the analysis.
- Cost-mitigating action taken by ecology.
- Expected net impact on jobs statewide.

This document is intended to be read with the associated cost-benefit analysis (Ecology Publication #16-08-015), which contains more in-depth discussion of the analyses, as well as references.



A small business is defined by RFA as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment - the way oil spill contingency planning would be regulated in the absence of the rule amendments. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for non-profit or government agencies.

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

**1.1 Description of the proposed rule:** The proposed rule amendments:

- Update definitions to ensure clarity and consistency with existing federal regulations.
- Clarify the worst case discharge calculation for pipelines.
- Create a new pipeline geographic information planning standard which will use available geo-referenced data to support preparedness planning and initial decision making during pipeline oil spills.
- Enhance our existing air monitoring requirements for pipelines to ensure safety of oil spill responders and the general public.
- Enhance our spills to ground requirements to ensure rapid aggressive and well-coordinated responses to spills to ground which could impact ground water.
- Update our pipeline planning standard requirements to ensure the equipment required is appropriate for the environment pipelines may impact.
- Expand the BAP review cycle to facilities and pipelines.
- Other changes to clarify language and make any corrections needed.

**1.2 Reasons for the proposed rule:** The rule requirements were last updated for pipelines in 2006. At that time the pipeline planning standards were developed to align with the marine oil terminal standards. In Washington, pipelines exist in both marine and inland areas. After several years of implementing the rule, we have identified the need to update our standards to ensure that required oil spill response equipment is appropriate for the pipeline risks and operating environments (marine and inland). We also feel the need to better incorporate and embrace available technology and geo-referenced data in our planning requirements.

Increased crude-by-rail transport has changed the risk picture for oil spills in Washington state. During the 2015 legislative session, the legislature directed ecology to apply the concept of BAP to facilities. This includes pipelines.

**1.3 Regulatory baseline:** In most cases, the regulatory baseline for analysis is the existing rule. Where there is no existing rule, federal and local regulations are the baseline. In the case of the proposed rule amendments, the existing state and federal requirements comprise the baseline. See the associated cost-benefit analysis for extensive discussion of the baseline.

The federal component of the baseline consists of requirements for oil spill response plans in 49 C.F.R. Part 190. The state component of the baseline consists of the rule as currently written.

**Chapter 2 - Compliance Costs:** The costs analyzed here include:

- Pipeline plan holder phase in.
- General plan content - redefine WCD and include concept of response zone.
- Planning standards for pipelines carrying crude oil.
- Identification of all locations where pipeline crosses a shoreline of statewide significance to identify necessary planning points.
- Geographic information planning standards for pipeline plan holders.
- Pipeline planning standards for air quality monitoring.

Ecology estimated present value compliance costs over twenty years.

There are currently seven approved pipeline contingency plans that this rule applies to:

- Kinder Morgan Transmountain Pipeline LLC.
- Olympic Pipe Line Company.
- Phillips 66 Integrated Contingency Plan.
- Tesoro Logistics NW Pipeline.
- Tidewater Transportation and Terminals.
- U.S. Oil & Refining Co. and McChord Pipeline Co.
- Targa Sound Terminal.

The total estimated costs over twenty years due to the proposed rule amendments ranges from \$170,500 to \$251,200.

**Chapter 3 - Determination of proportionality:** While several of the covered pipelines are operated by businesses with many thousands of employees (at the parent company level), at least one has indicated that they currently employ less than fifty employees. Compliance costs for the proposed rule amendments do not vary by business size. This inherently causes disproportional impacts, with small firms (firms with less than fifty employees) facing larger compliance costs on a per-employee basis than larger firms.

We conclude that the proposed rule is likely to have disproportionate impacts on small businesses, and must therefore include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

**Chapter 4 - Action Taken to Reduce Small Business Impacts:** Ecology included elements in the proposed rule amendments that reduce costs, but may be available to small and large businesses. Elements of the proposed rule amendments that reduce compliance costs include:

- Allowing phase-in for plan holders allows them to update plans for new requirements when they submit normally scheduled updates in some cases.
- By providing standards specifically for tank farms, it allows them to use smaller storage volumes than would have otherwise been prescribed. These higher volumes may not be necessary in some of the inland environments tank farms are located in.

Ecology also has internal implementation plans that include provision of many of the spreadsheets and forms covered pipelines would need to use.

**Chapter 5 - Small Business and Government Involvement:** Ecology involved small businesses and local government in its development of the proposed rule, using:

Rule development phase announcements:

- Letter to tribes.
- Spills listserv (mailing list for those interested in spills program work (including rule makings)).
- Press release.
- WAC track listserv.
- Notices to pipelines impacted by the rule.
- E-mail to interested parties:
  - Washington Environmental Council.
  - Western States Petroleum Association.
  - Association of Washington Cities.
  - OR Department of Environmental Quality.
  - Planning Association of Washington.
  - Washington Public Ports Association.
  - Washington State Association of Counties.
  - CA DFW Office of Spill Prevention and Response.
  - ID Department of Environmental Quality.
  - Utilities and transportation commission.
  - U.S. DOT, Pipeline and Hazardous Materials Safety Administration (PHMSA).
  - Federal Railroad Administration (FRA).
  - Environmental Protection Agency (EPA).
  - The Pipeline Safety Trust.
  - Citizens Committee on Pipeline Safety.
  - Pacific States/BC Task Force.
- Regulated industry:
  - Pipelines regulated by the existing rule.
  - Other entities regulated by the spills program.
- Local emergency planning committee contacts - county emergency managers.
- Public workshop and webinar.

**Chapter 6 - NAICS Codes of Impacted Industries:**

The standard industry classification system required in RFA has long been replaced by the North American Industry Classification System (NAICS).

The proposed rule is likely to impact covered pipelines in NAICS 486 (Pipeline Transportation).

If PRCs incur costs, they (at the parent company level) are classified as:

- NAICS 2371 (Utility System Construction).
- NAICS 3366 (Ship and Boat Building).
- NAICS 4883 (Support Activities for Water Transportation).
- NAICS 5417 (Scientific Research and Development Services).
- NAICS 5619 (Other Business Support Services).
- NAICS 5629 (Remediation and Other Waste Management Services).
- NAICS 8139 (Business, Professional, Labor, Political, and Similar Organizations).

**Chapter 7 - Impact on Jobs:** Ecology used the Washington state office of financial management's 2007 Washington input-output model to estimate the impact of the rule on jobs in the state. The model accounts for interindustry

impacts and spending multipliers of earned income and changes in output.

The proposed rule amendments will result in transfers of money within and between industries; plan holders and PRCs complying with the rule amendments will pay employees or businesses providing equipment or services.

Assuming the work done to meet the proposed requirements is completed internally, the Washington state economy could experience a net loss of two to three jobs over twenty years, as compliance costs incurred internally are not fully offset by transfers of funds to entities providing response assets and personnel.

These prospective changes in overall employment in the state are actually the sum of multiple small increase[s] and decreases across all industries in the state.

A copy of the statement may be obtained by contacting Shon Kraley, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6774, fax (360) 407-6989, e-mail Shon.Kraley@ecy.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Shon Kraley, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6774, fax (360) 407-6989, e-mail Shon.Kraley@ecy.wa.gov.

May 16, 2016

Polly Zehm

Deputy Director

**PART I: PURPOSE, APPLICABILITY, AUTHORITY, ((APPLICABILITY)) AND DEFINITIONS**

AMENDATORY SECTION (Amending WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**WAC 173-182-010 Purpose.** The purpose of this chapter is to establish covered vessel and facility oil spill contingency plan requirements (Part II), 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;

(b) Ensure continual readiness, maintenance of equipment and training of personnel;

(c) Support coordination with state, federal, tribal and other contingency planning efforts;

(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 (BAP) 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)~~ chapter does not constitute failure to comply with a contingency plan, for purposes of this ~~(section)~~ chapter 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 WSR 14-15-076, filed 7/16/14, effective 8/16/14)

**WAC 173-182-015 Applicability.** (1) This chapter applies to owners and operators of onshore facilities, offshore facilities, and covered vessels required to submit oil spill contingency plans under chapters 90.56 and 88.46 RCW.

(2) This chapter applies to any person submitting a contingency plan on behalf of a covered vessel, multiple covered vessels, onshore facilities and offshore facilities, or any combination thereof.

(3) This chapter applies to response contractors that must be approved by ecology before they may serve as primary response contractors (PRCs) 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.

(5) Railroads are facilities for the purposes of contingency planning under RCW 90.56.210. Railroad contingency planning regulations are described in chapter 173-186 WAC.

AMENDATORY SECTION (Amending WSR 14-15-076, filed 7/16/14, effective 8/16/14)

**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.~~

(2) "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.

(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 ~~((2004))~~ 2007 and ASTM International F 625-94 (reapproved ~~((2000))~~ 2006), and the *Resource Typing Guidelines* found in ~~((chapter 13 of the 2000 Oil spill field operations guide))~~ the Western Response Resource List (WRRL) user manual.

(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.

(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.

(8) "Cascade" means to bring in equipment and personnel to the spill location in a succession of stages, processes, operations, or units.

(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 or other provider commits the identified resources in the event of an oil spill.

(10) "Covered vessel" means a tank vessel, cargo vessel (including fishing and freight vessels), or passenger vessel required to participate in this chapter.

(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.

(12) "Demise charter" means that the owner gives possession of the ship to the charterer and the charterer hires its own master and crew.

(13) "Director" means the director of the state of Washington department of ecology.

(14) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(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.

(16) "Ecology" means the state of Washington department of ecology.

(17) "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.

~~((17) "Ecology" means the state of Washington department of ecology.))~~

(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) "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~~

~~((ii)), that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.~~

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, 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.

(20) "Geographic Response Plans (GRP)" means response strategies published in the *Northwest Area Contingency Plan*.

(21) "Gross tons" means a vessel's approximate volume as defined under Title 46, United States Code of Federal Regulations, Part 69.

(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.

(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.

(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.

(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.

(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.

(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.

(29) "Nondedicated" means those response resources listed by a primary response contractor for oil spill response activities that are not dedicated response resources.

(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:

(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).

(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.

(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.

(34) "Oil" or "oils" means oil of any kind that is liquid at ~~((atmospheric temperature and))~~ twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, 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)))~~ 102(a) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(35) "Oily waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

(36) "Onshore facility" means any facility, as defined in subsection ~~((14))~~ (19) 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.

(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 ASTM International F 625-94 (reapproved 2006).

(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;

(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.

(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.

(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:

(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.

(43) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, co-partnership, association, firm, individual, or any other entity whatsoever.

(44) "Pipeline control point" means a location along the pipeline preidentified as an initial control or containment strategy to minimize impacts of spilled oil. The objective of a control point may be to contain, collect, divert or exclude oil from further impacting sensitive environmental, economic or cultural resources. Control points are designed and maintained by pipeline plan holders.

(45) "Pipeline tank farm" means a facility that is linked to a pipeline but not linked to a vessel terminal.

~~((45))~~ (46) "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.

~~((46))~~ (47) "Plan holder" means a person who submits and implements a contingency plan consistent with RCW 88.46.060 and 90.56.210 on the person's own behalf or on behalf of one or more persons. Where a plan is submitted on behalf of multiple persons, those covered under that plan are not considered plan holders for purposes of this chapter.

~~((47))~~ (48) "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.

~~((48))~~ (49) "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.

~~((49))~~ (50) "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.

~~((50))~~ "~~Regional response list~~" means a regional equipment list established and maintained by spill response equipment owners in the northwest area.)

(51) "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.

~~((52))~~ (52) "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.

~~((53))~~ (53) "Resident" means the spill response resources are staged at a location within the described planning area.

~~((54))~~ (54) "Response zone" means a geographic area either along a length of a pipeline or including multiple pipelines, containing one or more adjacent line sections, for which the operator must plan for the deployment of, and provide, spill response capabilities. The size of the zone is determined by the operator while considering available capability, resources, and geographic characteristics.

(55) "Responsible party" means a person liable under RCW 90.56.370.

~~((54))~~ (56) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

~~((55))~~ (57) "Shorelines of statewide significance" means those shorelines of statewide significance defined in the Shoreline Management Act (SMA), RCW 90.58.030.

(58) "Spill" means an unauthorized discharge of oil which enters waters of the state.

~~((56))~~ (59) "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.

~~((57))~~ (60) "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))~~ (61) "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.

~~((59))~~ (62) "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))~~ (63) "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.

(64) "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.

~~((61))~~ "Transfer site" means a location where oil is moved in bulk on or over waters of the state to or from a cov-

ered vessel by means of pumping, gravitation, or displacement.

~~(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.~~

~~(63))~~ (65) "Umbrella plan" means a single plan submitted on behalf of multiple covered vessels that is prepared by a nonprofit corporation.

~~((64))~~ (66) "Vessel terminal" means a facility that is located on marine or river waters and transfers oil to or from a tank vessel.

(67) "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.

~~(66))~~ (68) "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.

~~((67))~~ (69) "Western regional response list (WRRL)" means a regional equipment list established and maintained by spill response equipment owners in the northwest area.

(70) "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, response zones, or volume of the largest breakout tank. For each it is the largest volume determined from the following 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;

For planning purposes, the total time to detect the release and shutdown the pipeline should be based on historic discharge data or, in the absence of such historic data, the operator's best estimate. At a minimum the total time to detect and

shut down the pipeline, must be equal to or greater than twenty minutes.

(ii) The maximum historic discharge from the pipeline; and

(iii) The largest single breakout tank or battery of breakout tanks (~~(without)~~) within 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 in the contingency plan.

~~((68) "WRIA" means a water resource inventory area as defined in chapter 173-500 WAC.))~~

**AMENDATORY SECTION** (Amending WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**WAC 173-182-120 Submitting a contingency plan.**

(1) Plan holders shall submit plans to ecology no less than sixty-five days prior to their planned date for beginning of operations in Washington.

(2) The plan holder shall submit two copies of the plan and all appendices. Electronic submission of plans is encouraged, provided it is in an electronic format acceptable to ecology. In the case of electronic submission, only one copy is necessary.

(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)) Ecology will maintain mailing~~

address and electronic submittal instructions on the agency web site.

**AMENDATORY SECTION** (Amending WSR 14-15-076, filed 7/16/14, effective 8/16/14)

**WAC 173-182-130 Phase in language for vessel and facility plan holders.**

(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 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 (8)), 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) 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) and (7)).

(v) Contingency plan general content (WAC 173-182-230 (8)), 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 1 - 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.

#### NEW SECTION

**WAC 173-182-135 Phase in language for pipeline plan holders.** (1) This section applies to those pipeline plan holders who, on the effective date of this chapter, have approved or conditionally approved plans. Each plan update must contain all necessary content and meet the requirements of this chapter.

(2) Within twelve months after the effective date of this chapter:

(a) Update the description of the response zone and worst case discharge volume and calculations in the plan;

(b) Update the plan to demonstrate compliance with:

(i) Planning standards for storage (WAC 173-182-335);

(ii) Transmission pipelines and pipeline tank farms that may impact shorelines of statewide significance (WAC 173-182-365);

(iii) Pipeline tank farms (WAC 173-182-366);

(iv) Planning standards for pipelines carrying crude oil (WAC 173-182-323); and

(v) Best achievable protection review cycle (WAC 173-182-621).

(3) Within twenty-four months from the effective date of this chapter:

(a) Update the plan to demonstrate compliance with the geographic information planning standard (WAC 173-182-515).

(b) Update the plan to demonstrate compliance with the pipeline air monitoring planning standard (WAC 173-182-535).

(4) To the extent to which plan holders rely on PRC applications to demonstrate compliance for the plan holder, PRC applications must also be updated.

AMENDATORY SECTION (Amending WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**WAC 173-182-140 Plan maintenance.** At least once annually, plan holders shall review the entire plan for accuracy and either:

(1) Update and ~~((distribute))~~ submit 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.

AMENDATORY SECTION (Amending WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**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 WSR 06-20-035, filed 9/25/06, effective 10/26/06)

**WAC 173-182-150 Post-spill review and documentation procedures.** Plan holders are required to conduct post-spill review procedures to review both the effectiveness of the plan and make plan improvements. Debriefs with ecology and other participating agencies and organizations may be appropriate if a unified command has been established during a spill, and are required when significant plan updates are identified or significant lessons can be recorded and implemented.

AMENDATORY SECTION (Amending WSR 14-15-076, filed 7/16/14, effective 8/16/14)

**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 or response zones on the entire pipeline may be submitted to ecology for consideration. The methods and calculations used to determine the worst case discharge volumes must be included in the plan.

(ii) For vessel umbrella plans that enroll both tank vessels and nontank covered vessels and that rely on supplemental resources for approval, 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 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 the tank capacity.

(iii) All oil(s) or product(s) handled by name and include; density, gravity, API, oil group number, and sulfur content (sweet/sour).

(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.

(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.

(vi) For pipelines, a narrative describing how the response zone was identified shall be submitted as part of the plan.

(5) Additional vessel plan content. Except as provided in subsections (6) and (7) of this section, vessel plans shall also include:

(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) 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; and

(h) A diagram indicating cargo, fuel, and ballast tanks and piping, power plants, and other oil storage and transfer sites and operations.

(6) Plans covering multiple vessels with different owners shall also include the following:

(a) In lieu of providing vessels names, call signs and country of registry, plan holders shall maintain accurate enrollment or member lists with vessel specific information provided by covered vessels and shall 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; and

(vii) Protection and indemnity (P&I) club.

(b) Plans covering multiple 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) Umbrella plans shall list the name of the entities that provide supplemental equipment.

(8) 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.

**AMENDATORY SECTION** (Amending WSR 14-15-076, filed 7/16/14, effective 8/16/14)

**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 plan holders covering multiple persons 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.

Plans covering multiple persons 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 173-182-323 Planning standards for pipelines carrying crude oil.** (1) Pipeline plan holders handling, storing or transporting crude oils and diluted bitumen, must have a contract with a PRC that maintains the resources, equipment, and capabilities necessary to respond to an oil that may weather and submerge or sink. 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 WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**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~~) in WAC 173-182-355 through 173-182-450, 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~~) in

WAC 173-182-355 through 173-182-450, must be dedicated to on-water storage.

(3) For facility plan holders, one hundred percent of the storage requirements may be met through shoreside storage assets provided shoreside storage is the most appropriate method for containing recovered oil, given the limitations of geography and local environmental conditions, as required in the tables in WAC 173-182-355 through 173-182-450.

AMENDATORY SECTION (Amending WSR 06-20-035, filed 9/25/06, effective 10/26/06)

**WAC 173-182-345 Determining effectiveness of recovery systems.** Plan holders and PRCs that own equipment shall provide information for ecology to determine the effectiveness of the recovery systems and how the equipment meets the planning standards. To avoid duplication, plan holders relying upon a PRC to meet the necessary planning standards may reference the information submitted in the PRC's application, as approved by the department. Ecology will use the criteria in ASTM International F 1780-97 (reapproved ((2002)) 2010).

Determination of efficiency of recovery systems in varied operating environments and product types:

(1) For all skimmers, describe how the device is intended to be transported and deployed. List the boom and work boats associated with each water based skimming system. Identify the pumps and pumping capacity that will be used to transfer product to storage devices.

(2) For all oil recovery systems that rely on a vessel of opportunity or nondedicated transport asset, include a statement on how the asset would be located and secured. Include

in the plan the mobilization time needed to ensure the assets are available, as well as the time needed to set up the oil recovery system, and the personnel that will be used in the operations. This may require longer mobilization time than those found in this chapter.

AMENDATORY SECTION (Amending WSR 06-20-035, filed 9/25/06, effective 10/26/06)

**WAC 173-182-365 Transmission pipelines and pipeline tank farms that may impact shorelines of statewide significance.** ~~((1) To determine the amount of boom necessary for the two-hour standard the plan holder must identify by WRIA, surface waters of the state with the potential to be impacted by a spill from the pipeline.~~

~~(a) To determine the two-hour booming requirements, select the widest river within the WRIA.~~

~~(b) Determine the average river speed at this location.~~

~~(i) For rivers with a current of two knots boom in the amount of three times the widest point in the river that the pipeline could affect.~~

~~(ii) For rivers with a current of three knots the requirement would be for five times the widest point in the river that the pipeline could affect.~~

~~(iii) For rivers with a current of five knots the requirement would be for seven times the widest point in the river that the pipeline could affect.~~

~~(2) Or alternatively, the two-hour standard will be two thousand feet of boom.~~

~~(3) Boom required for the two-hour standard shall be dedicated to spill response and should be staged in various locations along the pipeline.))~~

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
1	A safety assessment of the spill by trained crew and appropriate air monitoring could have arrived		
2	<u>2,000 feet of boom available at the spill source or downstream of the source could have arrived</u>  <u>Alternatively, resources identified to deploy a pipeline control point to keep oil from entering surface waters or penetrating into the ground could have arrived</u>		
6	Additional 5,000 feet of boom available for containment, recovery or protection could have arrived	Capacity to recover the lesser of 10% 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 boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 15% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived	2 times the EDRC
24	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 20% of worst case spill volume or 48,000 barrels within 24-hour period could have arrived	3 times the EDRC

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
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

NEW SECTION

**WAC 173-182-366 Pipeline tank farms.**

Time (hours)	Boom/Assessment	Minimum Oil Recovery Rate % of WCS volume per 24 hours	Minimum Storage in Barrels
1	A safety assessment of the spill by trained crew and appropriate air monitoring could have arrived		
2	2,000 feet of boom available at the spill source or downstream of the source could have arrived  Alternatively, resources identified as a pipeline control point to keep oil from entering surface waters or penetrating into the ground could have arrived		
6	Additional 5,000 feet of boom available for containment, recovery or protection could have arrived  Alternatively, additional resources identified as a pipeline control point to keep oil from entering surface waters or penetrating into the ground could have arrived	Capacity to recover the lesser of 10% of worst case spill volume or 8,000 barrels within 24-hour period could have arrived	1 times the EDRC
12	Additional 20,000 feet of boom to be used for containment, protection or recovery could have arrived	Capacity to recover the lesser of 15% of worst case spill volume or 36,000 barrels within 24-hour period could have arrived	1 times the EDRC
24	More boom as necessary for containment, recovery or protection	Capacity to recover the lesser of 20% 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

NEW SECTION

**WAC 173-182-515 Geographic information planning standards for pipeline plan holders.**

(1) Plan holders shall create and maintain a geographic information planning tool that supports the plan holder in mapping and tracking spilled oil, decision making, and enhancing the recovery and removal operations that are described in the plan.

(2) The tool must include the following as applicable to the areas which may be impacted by a pipeline spill:

(a) Pipeline details which include location information for line segments, block valves, break out tanks, containment structures, control stations, safety equipment, pipeline right of way, access points, and pipeline control points;

(b) Sensitive natural, cultural and economic area information including applicable geographic response plans (GRP);

(c) Information about public resources, water intakes, sole source aquifers, existing monitoring wells and drinking water supplies;

(d) Topography of the area; and

(e) Oil spill response equipment staging information.

(3) The tool must be described and referenced in the contingency plan, but is not required to be included in the plan.

(4) The plan holder must commit in writing to utilizing the tool during drills and spills.

(5) The tool must be updated at a minimum once every five years or in response to lessons learned during drill and spill events.

NEW SECTION

**WAC 173-182-535 Pipeline planning standards for air monitoring to protect oil spill responders and the public.** Plans will include a narrative description of applicable federal, state, and local requirements and the plan holder's resources for conducting air monitoring to protect oil spill responders and the public, including:

- (1) A description of how initial site safety assessment for responders will occur;
- (2) A description of how work area air monitoring will occur;
- (3) A description of how community air monitoring (area wide monitoring) will occur;
- (4) A description of air monitoring instruments and detection limits that will be used by responders when monitoring for public safety;
- (5) A description of action levels for various oil constituents of concern based on products handled by the pipeline (benzene, H<sub>2</sub>S, etc.);
- (6) A description of data management protocols and reporting time frames to the unified command;
- (7) A description under unified command of communication methods to at-risk populations;
- (8) A description under unified command of how evacuation zones and shelter-in-place criteria are established.

AMENDATORY SECTION (Amending WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**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))~~ the ecology e-mail list (listserv) for posting notice about plan review and comment periods. 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 and 173-182-135;
- (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 WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**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))~~ Exercise Program ((PREP)) NPREP, is relied on to test each component of the plan.

(2) Plan holders and PRCs shall ensure ecology 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))~~ in WAC 173-182-710.

(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, 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 WSR 14-15-076, filed 7/16/14, effective 8/16/14)

**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 - One 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 - Done 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. Except the tank vessel multiplan holder deployment drill which must be scheduled at least 60 days in advance.
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.
ERTV Deployment Drill for covered vessels transiting the Strait of Juan de Fuca	1 - One in each three year cycle, this is an additional deployment drill unless it is incorporated into a large multiobjective deployment drill.	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.	Scheduled at least 30 days in advance.
Wildlife Deployment Drill	1 - One in each three year cycle. This is an additional drill unless it is incorporated into a large multiobjective deployment drill.	This drill will be a deployment of wildlife equipment and wildlife handlers.	Scheduled at least 30 days in advance.
Tank vessel multiplan holder deployment drill	1 - One in each three year cycle.	This drill may involve dedicated and nondedicated equipment, vessels of opportunity, multiple simultaneous tactics, and the verification of operational readiness over multiple operational periods.	Scheduled at least 60 days in advance.

(1) Tabletop drills: 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:

(a) Western regional response list identification numbers for all response resources; and

(b) 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. However, at ecology's discretion, 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 six years.

(3) Plan holders covering multiple vessels 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 plan holder 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 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 conducted 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.

(5) Plan holders may receive credit for 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.

(6) Additional large-scale multiple tank vessel plan holder equipment deployment drill requirement. Once every three years all tank vessel plan holders, including plan holders that enroll multiple 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 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))~~ initiated by ecology 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 WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**WAC 173-182-720 Evaluation criteria.** The 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:))~~ Mitigation: 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))~~ through the use of oil spill countermeasures including, but not limited to, mechanical oil recovery, dispersants, in situ burning, and bioremediation ((use)).

(8) Protection: Demonstrate the ability of the spill response organization to protect the environmentally, culturally, 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))~~, for all areas of the response.

(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 WSR 13-01-054, filed 12/14/12, effective 1/14/13)

**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))~~ waiver request.

AMENDATORY SECTION (Amending WSR 06-20-035, filed 9/25/06, effective 10/26/06)

**WAC 173-182-910 Noncompliance.** (1) If an owner or operator of a covered vessel, onshore or offshore facility, a person or plan holder is unable to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, ecology may, at its discretion:

(a) Place conditions on approval; and

(b) Require additional drills to demonstrate effectiveness of the plan; or

(c) Revoke the approval status.

(2) Approval of a plan by ecology does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.

(3) Any violation of this chapter may be subject to the enforcement and penalty sanctions.

(4) Ecology may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this ~~((section))~~ chapter. Each day that a covered vessel, facility or person is in violation of this ~~((section))~~ chapter shall be considered a separate violation.

AMENDATORY SECTION (Amending WSR 06-20-035, filed 9/25/06, effective 10/26/06)

**WAC 173-182-920 Operation without plan.** (1) A covered vessel may not enter or operate on the waters of the state without an approved, or conditionally approved, contingency plan, except that a covered vessel not in compliance with this chapter may enter waters of the state if the Coast Guard has determined that the vessel is in distress.

(2) The owner or operator of an onshore or offshore facility may not operate without an approved, or conditionally approved, plan nor transfer cargo or passengers to or from a covered vessel that does not have an approved, or con-



ditionally approved, contingency plan. The owner or operator of a covered vessel may not transfer oil to or from an onshore or offshore facility that does not have an approved or conditionally approved contingency plan.

(3) Ecology may assess a civil penalty under RCW 43.21B.300 of up to one hundred thousand dollars against any person who is in violation of this ~~((section))~~ chapter. In the case of a continuing violation, each day's continuance shall be considered a separate violation.

(4) Any person found guilty of willfully violating any of the provisions of this ~~((section))~~ chapter, or any final written orders or directive of ecology or a court shall be deemed guilty of a gross misdemeanor and upon conviction shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

**AMENDATORY SECTION** (Amending WSR 06-20-035, filed 9/25/06, effective 10/26/06)

**WAC 173-182-930 Severability.** If any provision of this chapter is held invalid, the remainder of the ~~((rule))~~ chapter is not affected.

**WSR 16-11-113**  
**PROPOSED RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed May 18, 2016, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-156.

Title of Rule and Other Identifying Information: WAC 314-55-225 Marijuana recalls.

Hearing Location(s): Washington State Liquor and Cannabis Board (WSLCB), 3000 Pacific Avenue S.E., Board Room, Olympia, WA 98504, on July 13, 2016, at 10:00 a.m.

Date of Intended Adoption: On or after July 27, 2016.

Submit Written Comments to: Joanna Eide, Policy and Rules Coordinator, P.O. Box 43080, Olympia, WA 98504, e-mail rules@lcb.wa.gov, fax (360) 664-9689, by July 13, 2016.

Assistance for Persons with Disabilities: Contact Joanna Eide by July 6, 2016, (360) 664-1622.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to establish a process and requirement for recalls of marijuana and marijuana products, and to provide guidance for marijuana businesses that wish to conduct market withdrawals. This proposal creates a new section in chapter 314-55 WAC. Marijuana licensees will have to comply with the new recall requirements and create a recall plan should they be subject to a recall event. Notification requirements are included, as well as reporting requirements should a recall be required.

Reasons Supporting Proposal: Marijuana and marijuana products sold in WSLCB licensed retail stores are a consumable product and it is important that they are safe for human consumption. In the event that product posing a risk to consumers is discovered, rules are needed to establish the process and requirements for marijuana recalls to allow for affected product to be identified and removed from the marketplace in a fast and efficient manner. The recall process established in this proposed rule is based on similar processes and requirements in other industries that produce consumable products, and is modeled after the Washington state department of agriculture's recall procedures.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345.

Statute Being Implemented: RCW 69.50.342 and 69.50-345.

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

Name of Proponent: WSLCB, governmental.

Name of Agency Personnel Responsible for Drafting: Joanna Eide, Policy and Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1622; Implementation: Tim Gates, Marijuana Examiners, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1622; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**1. Description of Reporting, Recordkeeping and Other Compliance Requirements of the Proposed**

**Rule:** WAC 314-55-225 Marijuana recalls, is a proposed new WAC section that details a new process for recalls of marijuana. It contains several new reporting and other compliance requirements, some which apply to all licensees and some that will only apply to licensees that conduct a "market withdrawal" or are affected by a recall event.

(a) The following requirement applies to all licensees: Creation of a recall plan within sixty days of the effective date of the proposed rule. The recall plan details the procedures a licensee will follow should the licensee be affected by a recall event.

(b) The following new requirements will only apply to licensees who conduct a market withdrawal or are affected by a recall (case-by-case basis):

a. Reporting to a local WSLCB enforcement officer when conducting a "market withdrawal;"

b. Immediately notifying a local WSLCB enforcement officer when initiating a recall;

c. Tracking of affected product and the amount of affected product returned to the licensee as part of the recall effort; and

d. Recall status reporting throughout a recall event at a minimum of once per week during a recall.

The recall requirements in the proposed rule are similar to recall requirements in other industries that produce consumable products and mirror the recall requirements of the Washington state department of agriculture (WSDA).

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:**

There are no professional services licensees will need to create a recall plan or to comply with the requirements of a recall event. WSLCB will make a recall plan example available for licensees to use in creating a licensee's individual recall plan. A licensee may elect to retain professional services, but should not require them in order to comply with the provisions of the proposed rule.

**3. Costs Of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor and Increased Administrative Costs:**

The only cost for compliance that will impact all licensees are employee hours in creating a recall plan. These costs will be mitigated by WSLCB making a recall plan example available for licensees to use in creating a licensee's individual recall plan. Additionally, because each licensee compensates its employees at different rates, and WSLCB does not collect or have access to data on the amounts employees are paid, these costs will vary by licensee. WSLCB estimates that costs associated with complying with the new requirements in the proposed rules related to creating a recall plan should be minimal as it should take no more than ten - twenty hours of work to complete.

Whether a licensee will incur costs due to involvement in a recall is indeterminable as recalls will only be initiated on a case-by-case basis. It is not possible to determine whether a licensee will be subject to a recall in advance of the discovery of a condition warranting a recall.

**4. Will Compliance with the Rules Cause Businesses to Lose Sales or Revenue?**

A recall event may cause licensees to lose sales or revenue. It is important to note that a recall event will most often be triggered by a licensee failing to follow WSLCB rules for the production of marijuana. The amount of sales or revenue that may be lost is indeterminable as it is dependent on several issues.

(a) Whether a recall event is required is dependent on whether conditions exist that require one and can only be determined on a case-by-case basis.

(b) The amount of product that may be involved in a recall will vary depending on the circumstances and how much product is found to be affected by the condition that gives rise to a recall requirement.

(c) The reaction of consumers to a recall which is difficult to predict and may depend on the licensee's actions during a recall event (i.e. the swiftness at which a licensee responds to a recall and communications to consumers).

If a recall is triggered and product is destroyed, licensees would lose revenue on the product destroyed. This amount would be dependent on how much product is involved in a recall - the amount could be minimal or substantial depending on the circumstances. The average price per gram as of April 30, 2016, was \$8.73/gram at retail and \$3.14/gram at wholesale.

**5. Costs of Compliance for Small Businesses Compared with the Cost of Compliance for the Ten Percent of Businesses that are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:**

- a. Cost per employee;
- b. Cost per hour of labor; or

**c. Cost per one hundred dollars of sales.**

Virtually all marijuana businesses are small businesses. However, these businesses vary in size, costs per employee, costs per hour of labor, and costs per one hundred dollars in sales for a multitude of reasons, including license type. Employee compensation and costs per hour of labor data is not collected by or available to WSLCB, though WSCLB does collect data on collection on the value of marijuana at retail and wholesale. Depending on whether the licensee is a producer or processor or a retailer, the sales numbers are different due to the variance between wholesale and retail sales. The average price per gram as of April 30, 2016, was \$8.73/gram at retail and \$3.14/gram at wholesale.

The additional costs associated with complying with the new requirements in the proposed rules related to creating a recall plan should be minimal compared to sales revenue as it should take no more than ten - twenty hours of work to complete. The costs associated with creating a recall plan are further mitigated by WSLCB making a recall plan example available for licensees to use in creating a licensee's individual recall plan.

The costs of complying with a recall as provided in the proposed rule is indeterminate as recalls of products cannot be predicted as they are wholly dependent on whether a licensee does not follow board rules or whether a condition is present that would trigger a recall, and the amount of product that will be impacted by a recall will vary depending on the circumstances.

**6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So:**

WSLCB sought to reduce costs on licensees through making a recall plan example available for licensees to use in creating a licensee's individual recall plan. The recall requirements in the proposed rule are similar to recall requirements in other industries that produce consumable products, mirror the recall requirements of WSDA, and are necessary for consumer protection from products that pose risks to the consumer.

**7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:**

Most marijuana businesses are small businesses. They are invited to provide feedback to the rules during the rule-making process.

**8. A List of Industries That Will be Required to Comply with the Rule:**

All licensed marijuana licensees will be required to comply with these rules.

**9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result Of Compliance With the Proposed Rule:**

Indeterminate. Because recalls of products cannot be predicted as they are wholly dependent on whether a licensee does not follow board rules or whether a condition is present that would trigger a recall, and the amount of product that will be impacted by a recall will vary depending on the circumstances, WSLCB cannot predict whether a recall event will cause a loss of employees for a licensee.

A copy of the statement may be obtained by contacting Joanna Eide, Policy and Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, phone (360) 664-1622, fax (360) 664-9689, e-mail Joanna.Eide@lcb.wa.gov.

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

May 18, 2016  
Jane Rushford  
Chair

#### NEW SECTION

#### **WAC 314-55-225 Marijuana recalls. (1) Definitions.**

For the purposes of this section, the following definitions apply:

(a) "Affected product" means marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products subject to a recall.

(b) "Affected licensee" means a licensee whose marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products are subject to a recall. More than one licensee may be an affected licensee in a recall.

#### **(2) Exempt market withdrawals.**

(a) A licensee may withdraw from the market marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products by its own determination for reasons that do not pose a risk to consumers such as for aesthetic reasons or other similar deficiencies in product or packaging.

(b) If a licensee initiates a market withdrawal for a reason that does not pose a risk to consumers, the licensee must notify the WSLCB by contacting the local WSLCB enforcement officer assigned to the local area within forty-eight hours of beginning the market withdrawal. Licensees withdrawing marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products under this subsection (2), for reasons other than risk to consumers, are exempt from the remaining requirements of this section.

(3)(a) **When a recall is required.** A recall is required when circumstances exist that pose a risk to consumers. Factors that contribute to a determination of a recall situation include, but are not limited to, the following:

(i) Evidence that pesticides not approved by the board are present on or in marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products above the action levels prescribed by board rule;

(ii) Evidence that residual solvents are present on or in marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products at levels above the action levels prescribed by board rule; or

(iii) Evidence of another condition that poses a risk to consumers including, but not limited to, ingredients in marijuana-infused products that are unfit for human consumption.

#### **(b) Licensee-initiated recalls.**

(i) If a licensee initiates a recall due to a condition that poses a risk to consumers and would make a recall appropriate under this subsection (3), the licensee must:

(A) Immediately notify the local WSLCB enforcement officer; and

(B) Secure, isolate, and prevent the distribution of all marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products that may have been exposed to the condition warranting the recall. The licensee is prohibited from destroying any affected product prior to notifying the

WSLCB and coordinating with the local WSLCB officer on destruction activities.

(ii) If the WSLCB determines the licensee fails to engage in recall efforts that meet the urgency of the risk to consumers, the WSLCB may seek a board-directed recall as provided in this section depending on the circumstances.

#### **(c) WSLCB investigation-initiated recalls.**

(i) If the WSLCB determines that a recall is not appropriate after an investigation, the WSLCB enforcement division may release administrative holds placed on marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products as part of the investigation as appropriate, unless an administrative hold is necessary under a continuing investigation.

(ii) If the WSLCB determines that a recall is appropriate after an investigation, the WSLCB notifies the board and requests the board issue a recall. If the board issues a recall, the WSLCB notifies the affected licensee that is the source of the issue giving rise to a recall.

(d) **Recall plans.** All licensees must develop a recall plan within sixty days of the effective date of this section that sets the procedures the licensee will follow in the event of a recall of the licensee's product or products under the licensee's control. If a licensee becomes an affected licensee as part of a recall and the affected licensee distributed affected product to consumers or to retailers, the affected licensee must immediately notify all licensees that received affected product, and issue a press release and other appropriate public notification to inform consumers of the recall and identifying information about the affected product recalled.

(i) A recall plan must include, at a minimum, the following:

(A) Designation of a member of the licensee's staff who serves as the licensee's recall coordinator;

(B) Procedures for identifying and isolating product to prevent or minimize its distribution to consumers;

(C) Procedures to retrieve and destroy product; and

(D) A communications plan to notify those affected by the recall, including:

(I) How the affected licensee will notify other licensees in possession of product subject to the recall; and

(II) The use of press releases and other appropriate notifications to ensure consumers are notified of the recall and affected product information if the affected product was distributed to consumers.

(ii) A recall must follow the procedures outlined in the recall plan unless otherwise agreed by the WSLCB and the licensee. The affected licensee must ensure recall procedures are conducted to maximize recall of affected product and minimize risks to consumers.

(e) **Destruction of affected product.** An affected licensee must coordinate destruction of affected product with the local WSLCB enforcement officer and allow WSLCB enforcement to oversee the destruction of affected product recalled to ensure the destruction of affected product that poses risks to consumers.

(f) **Recall reports and audit.** The affected licensee must track the total amount of affected product and the amount of affected product returned to the affected licensee as part of the recall effort. The affected licensee must report to the

WSLCB periodically on the progress of the recall efforts. The periodic reports must occur at a minimum of once a week or as otherwise specified and agreed to by the WSLCB and the affected licensee in the recall plan.

(g) **Recall closure.** If the WSLCB determines that the recall efforts are successful and risks to public health and safety are no longer present, the WSLCB may recommend closure of the recall to the board.

(4) **Board-directed recall.**

(a) Upon the recommendation by the WSLCB enforcement division, the board may issue a directed recall if:

(i) The affected licensee does not comply with a recall under subsection (3) of this section;

(ii) The affected licensee does not comply with the recall plan or recall reporting requirements under subsection (3) of this section; or

(iii) The WSLCB enforcement division determines that affected product may be diverted or is being diverted from the licensed business, or another circumstance that makes the affected licensee's destruction of the product inadvisable or a risk to consumers.

(b) If the board issues a directed recall, the WSLCB will notify consumers of the recall and all licensees that may possess product affected by the recall if notice has not yet occurred.

(c) Under a directed recall, the WSLCB enforcement division may seek an order for destruction of the affected product from the board.

(i) If the board issues an order for destruction, the WSLCB enforcement division may seize and conduct the destruction of affected product.

(ii) An order for destruction will include notice to the licensee and opportunity for hearing before destruction, unless there is evidence of an immediate danger to public health, safety, or welfare to justify an immediate order for destruction, with an opportunity for an expedited hearing after the destruction.

(d) If a destruction order is issued and the WSLCB seizes product affected by the recall and conducts the destruction of the product, the affected licensee may be responsible for reimbursing the WSLCB for costs associated with product destruction.

(e) If the board finds that an immediate danger to the public health, safety, or welfare requires immediate WSLCB action, a licensee may also be subject to summary suspension under RCW 66.08.150(4).

(5) The WSLCB will maintain a recall web page on its web site of all current and closed recalls of record.

Title of Rule and Other Identifying Information: WAC 308-66-210 Statement of change in business structure, ownership interest or control.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Conference Room 2105, Olympia, WA 98502, on June 21, 2016, at 9:30 a.m.

Date of Intended Adoption: June 23, 2016.

Submit Written Comments to: Sirena Walters, Transportation Services, P.O. Box 9039, Olympia, WA 98507-9039, e-mail swalters@dol.wa.gov, fax (360) 586-6703, by June 20, 2016.

Assistance for Persons with Disabilities: Contact transportation services, TTY (360) 664-0116 or (360) 664-6455.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will eliminate the fingerprint requirement for business principals when there is a change in motor vehicle dealer business structure or ownership. This change will streamline the application process without compromising public protection, because the department is able to identify and qualify applicants through other means. Motor vehicle dealers reporting a change in business structure or ownership will avoid the time and expense required to get and submit fingerprint cards for any new principals, corporate officers, directors, managing partners, members or trustees.

In addition, this proposal replaces outdated wording "and legal and financial history" with the words "a personal and criminal history statement." The intent is to use the same words in rule as are used to describe the form used by the department.

Reasons Supporting Proposal: The proposed change will save time and expense for licensees and department staff. The changed wording is consistent with wording on the departmental form, and will help avoid confusion as to the license application and update requirements.

Statutory Authority for Adoption: RCW 46.70.160 Rules and regulations; RCW 46.01.110 Rule-making authority.

Statute Being Implemented: RCW 46.70.041 Application for license—Contents.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The department of licensing has full regulatory authority over motor vehicle dealers. The department of revenue and local authorities have an interest in the licensing of qualified individuals as dealers. Simplifying the process and reducing the cost of vehicle dealer license application and update will benefit licensees and the department. Applicant qualifications are effectively ascertained using comprehensive personal and financial record screening processes, making fingerprinting unnecessary. The department of licensing will communicate this proposed change to the department of revenue and local jurisdictions and invite their consideration and input during this rule making.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Derek Goudriaan,

**WSR 16-11-118**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed May 18, 2016, 11:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-03-003.

Department of Licensing, Business and Professions Division,  
405 Black Lake Boulevard, Olympia, WA 98507, (360) 664-  
6453.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule making does not impose any new requirements. This rule change will eliminate a requirement for fingerprint cards.

A cost-benefit analysis is not required under RCW 34.05.328. No costs are incurred. This rule change eliminates the requirement for fingerprint cards.

May 18, 2016  
Damon G. Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-03-119,  
filed 1/22/07, effective 2/22/07)

**WAC 308-66-210 Statement of change in business structure, ownership interest or control. When do I report such a change?** (1) With the exception of a corporation any person licensed as a dealer under chapter 46.70 RCW must, within ten days following any change in its business structure, file a new application and pay original licensing fees under the new entity.

(2) In addition, any new principals including, but not limited to, new corporate officers, directors, managing partners, members or trustees, must, within ten days of assuming such function, file ~~((an application including fingerprint cards and legal and financial history))~~ a personal and criminal history statement.

(3) Any person licensed as a vehicle manufacturer pursuant to chapter 46.70 RCW must inform the department in writing within ten days of the change to:

(a) The business structure of the licensee company and must file a new application and pay original licensing fees under the new entity;

(b) The mailing address of the licensee;

(c) The name and address of employees or agents designated pursuant to RCW 46.70.041 and 46.70.101 to provide service or repairs to vehicles located within the state of Washington. However, if the licensee requires warranty service to be performed by all of its dealers pursuant to current service agreements on file with the department, it need not advise the department of changes in such employees or agents.

(4) Any and all changes affecting the applicability of a surety bond shall be reflected by appropriate endorsement to such bond.