

WSR 16-23-002
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-280—Filed November 2, 2016, 1:13 p.m., effective December 3, 2016]

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

Purpose: Recreational salmon fishing rules based on North of Falcon recommendations change from year to year to reflect current resource availability and to achieve conservation goals. Specific to this rule adoption (associated CR-102 continuance WSR 16-14-014), changes to Washington department of fish and wildlife's freshwater fishing rules are the result of stakeholder recommendations made during North of Falcon meetings and a petition filed by the Colville tribes. The continuance accommodated a public hearing on August 5 and 6, and the fish and wildlife commission adopted these rules on October 7.

Citation of Existing Rules Affected by this Order: Amending WAC 220-310-195.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

Adopted under notice filed as WSR 16-14-014 on June 24, 2016.

Changes Other than Editing from Proposed to Adopted Version: The adopted rules have changes from the rule noticed in the CR-102, as a result of the continuance (WSR 16-14-014 filed on June 24). These are reflected in the rule changes presented below:

1. All tributaries to Lake Roosevelt between Grand Coulee Dam and the Canadian border are open the Saturday before Memorial Day through October 31; fisheries are under statewide stream rules.

2. On Lake Roosevelt (Grant/Ferry/Lincoln/Stevens counties), from Grand Coulee Dam to the Little Dalles power line crossing, there is no longer a daily limit of 5 trout with no more than 2 trout over 20 inches in length; the daily limit will remain at 5 trout with no size restrictions and it is unlawful to retain any trout with an intact adipose fin.

3. On Lake Roosevelt, from the Little Dalles power line crossing to the Canadian Border, trout (except kokanee) have a daily limit of 2, minimum size 18 inches.

4. For the Sanpoil River (Ferry County), from the western shoreline at the mouth of the Sanpoil Arm (as marked by a regulatory buoy) directly eastward across the Sanpoil Arm to the eastern shoreline of the Sanpoil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the Sanpoil Arm to the north shore of the outlet of Dick Creek, the fishery will now open June 1 (formerly April 1) for trout, kokanee, walleye and smallmouth bass. There is no longer a daily limit of 5 trout with no more than 2 trout over 20 inches in length; the daily limit will remain at 5 trout with no size restrictions and it is unlawful to retain any trout with an intact adipose fin.

5. For the Sanpoil River (Ferry County), from the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the Sanpoil 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: The fishery now opens for walleye and smallmouth bass on June 1, as opposed to April 1.

6. For the Spokane Arm of Lake Roosevelt (including Spokane River, from SR 25 Bridge upstream to 400 feet below Little Falls Dam): There is no longer a daily limit of 5 trout with no more than 2 trout over 20 inches in length; the daily limit will remain at 5 trout with no size restrictions and it is unlawful to retain any trout with an intact adipose fin.

Rationale: The Washington fish and wildlife commission took action to further protect redband rainbow trout in Lake Roosevelt, a Columbia River reservoir in northeast Washington. The commission voted to change the daily catch limit on trout at Lake Roosevelt and extend a closure in a section of the Sanpoil River during the redband rainbow trout staging, spawning and outmigration period. Previously, anglers fishing Lake Roosevelt could keep 5 trout (hatchery or wild) per day, including 2 fish 20 inches or larger in size. The commission voted to keep the 5 trout daily limit at Lake Roosevelt in the area from Grand Coulee Dam to the Little Dalles power line crossing, but anglers fishing there will be allowed to retain only hatchery trout (adipose fin clipped trout). In addition, anglers fishing from the Little Dalles power line crossing to the Canadian border will have a daily limit of 2 trout (hatchery or wild fish) that are 18 inches or larger.

Commissioners also voted to extend the closure of the Sanpoil River arm of the reservoir, where redband rainbow trout stage to make their upriver spawning run. The arm will open to fishing June 1, 2 months later than the area has typically opened.

The commission voted to reopen fishing in tributaries in upper Lake Roosevelt, including Big Sheep and Deep creeks. Beginning next year, those streams will be open the Saturday before Memorial Day through Oct. 31. They were unintentionally closed during the Columbia Basin stream strategy rule-making process in 2014.

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

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

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

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

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

Date Adopted: October 7, 2016.

Brad Smith, Chair
 Fish and Wildlife Commission

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: ~~((+))~~ 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))~~ Canadian border 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.

~~((+))~~ ~~Barbless hooks are required for salmon and steelhead.~~

~~((+))~~ (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 Hyas 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 Hyas 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 foot-bridge 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.

(ii) 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.

(iii) 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 Little Dalles power line crossing:

(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 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 the Little Dalles power line crossing 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; minimum size 18 inches.

(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))~~ June 1 through January 31 for kokanee, smallmouth 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:

~~((H))~~ Limit 5; it is unlawful to retain ~~((more than 2))~~ trout ~~((over 20 inches))~~ with an intact adipose fin.

~~((H))~~ Release rainbow trout with adipose fins intact.

~~(D))~~ (C) 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))~~ June 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: ((~~H~~)) Limit 6; no ((~~minimum size~~)) more than 2 with intact adipose fins may be retained.

((~~H~~)) It is unlawful to retain more than 2 with intact adipose fins.

((~~H~~)) Kokanee does not count towards the trout limit.

(B) Salmon: Landlocked salmon rules apply.

(C) Trout: ((~~H~~)) Limit 5((~~; no minimum size~~)), it is unlawful to retain trout with an intact adipose fin.

((~~H~~)) It is unlawful to retain more than 2 trout over 20 inches in length.

(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.

Citation of Existing Rules Affected by this Order: Amending WAC 284-43-6000, 284-43-6010, 284-43-6020, 284-43-6060, 284-43-6200, 284-43-6500, and 284-60-010.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, 48.46.200.

Other Authority: Chapter 156, Laws of 2016, effective March 31, 2016.

Adopted under notice filed as WSR 16-16-054 on July 27, 2016.

A final cost-benefit analysis is available by contacting Bianca Stoner, P.O. Box 40260, Olympia, WA 98504, phone (360) 725-7041, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 7, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 4, 2016.

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-6000 Authority and purpose. This subchapter is adopted under the general authority of RCW 48.02.060, 48.44.017, 48.44.020, 48.44.050, 48.46.060, 48.46.062, ~~((and))~~ 48.46.200, and 48.43.733. Its purpose is to provide guidelines for the implementation of RCW 48.44.017(2), 48.44.020(3), 48.44.022, 48.44.023, 48.44.040, 48.46.060 (4) and (6), 48.46.062(2), 48.46.064, ~~((and))~~ 48.46.066, 48.18.110, 48.18.480, and 48.43.733 as to the filing of ~~((contract forms))~~ grandfathered individual and small group health plans applicable under RCW 48.44.017, 48.44.022, and 48.44.023 by health care service contractors ((and)), grandfathered individual and small group health plans applicable under RCW 48.46.062, 48.46.064, and 48.46.066 by health maintenance organizations, stand-alone dental plans and stand-alone vision plans offered by health care service contractors, health maintenance organizations, and disability carriers to individuals and small groups, and the calculations and evaluations of premium rates for these contracts.

WSR 16-23-019

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2016-06—Filed November 4, 2016, 11:44 a.m., effective December 5, 2016]

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

Purpose: Implementing the requirements of SSB 6536.

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-6010 Applicability and scope. This subchapter applies to grandfathered individual and small group health benefit plans (~~(as defined in RCW 48.43.005, and contracts for limited health care services as defined in RCW 48.44.035,)~~) offered by health care service contractors and health maintenance organizations transacting business in this state under chapter 48.44 or 48.46 RCW ~~((-H)),~~ stand-alone dental plans and stand-alone vision plans. This subchapter applies to such plans purchased directly by individuals ~~(s)~~ and small employers ~~(s, large employers and other organizations).~~

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-6020 Definitions. For the purpose of this subchapter:

- (1) "Adjusted earned premium" means the amount of "earned premium" the "carrier" would have earned had the "carrier" charged current "premium rates" for all applicable "plans."
- (2) "Annualized earned premium" means the "earned premium" that would be earned in a twelve-month period if earned at the same rate as during the applicable period.
- (3) "Anticipated loss ratio" means the "projected incurred claims" divided by the "projected earned premium."
- (4) "Base rate" means the "premium" for a specific "plan," expressed as a monthly amount per "covered person or subscriber," prior to any adjustments for geographic area, age, family size, wellness activities, tenure, or any other factors as may be allowed.
- (5) "Capitation expenses" means the amount paid to a provider or facility on a per "covered person" basis, or as part of risk-sharing provisions, for the coverage of specified health care services.
- (6) "Carrier" means a health care service contractor or health maintenance organization.
- (7) "Certificate" means the statement of coverage document furnished "subscribers" covered under a "group contract."
- (8) "Claim reserves" means the "claims" that have been reported but not paid plus the "claims" that have not been reported but may be reasonably expected.
- (9) "Claims" means the cost to the "carrier" of health care services provided to a "covered person" or paid to or on behalf of the "covered person" in accordance with the terms of a "plan." This includes "capitation payments" or other similar payments made to providers or facilities for the purpose of paying for health care services for a "covered person."
- (10) "Community rate" means the weighted average of all "premium rates" within a filing with the weights determined according to current enrollment.
- (11) "Contract" means an agreement to provide health care services or pay health care costs for or on behalf of a "subscriber" or group of "subscribers" and such eligible dependents as may be included therein.
- (12) "Contract form" means the prototype of a "contract" and any associated riders and endorsements filed with the

commissioner by a health care service contractor or health maintenance organization.

(13) "Contribution to surplus, contingency charges, or risk charges" means the portion of the "projected earned premium" not associated directly with "claims" or "expenses."

(14) "Covered person" or "enrollee" has the same meaning as that contained in RCW 48.43.005.

(15) "Current community rate" means the weighted average of the "community rates" at the renewal or initial effective dates of each plan for the year immediately preceding the renewal period, with weights determined according to current enrollment.

(16) "Current enrollment" means the monthly average number and demographic makeup of the "covered persons" for the applicable contracts during the most recent twelve months for which information is available to the carrier.

(17) "Earned premium" means the "premium" plus any rate credits or recoupments, applicable to an accounting period whether received before, during, or after such period.

(18) "Expenses" means costs that include but are not limited to the following:

- (a) Claim adjudication costs;
- (b) Utilization management costs if distinguishable from "claims";
- (c) Home office and field overhead;
- (d) Acquisition and selling costs;
- (e) Taxes; and
- (f) All other costs except "claims."

(19) "Experience period" means the most recent twelve-month period from which the carrier accumulates the data to support a filing.

(20) "Extraordinary expenses" means "expenses" resulting from occurrences atypical of the normal business activities of the "carrier" that are not expected to recur regularly in the near future.

(21) "Grandfathered" has the same meaning as that contained in RCW 48.43.005.

(22) "Group contract" or "group plan" means an agreement issued to an employer, corporation, labor union, association, trust, or other organization to provide health care services to employees or members of such entities and the dependents of such employees or members.

~~((22))~~ (23) "Incurred claims" means "claims" paid during the applicable period plus the "claim reserves" as of the end of the applicable period minus the "claim reserves" as of the beginning of the applicable period. Alternatively, for the purpose of providing monthly data or trend analysis, "incurred claims" may be defined as the current best estimate of the "claims" for services provided during the applicable period.

~~((23))~~ (24) "Individual contract" means a "contract" issued to and covering an individual. An "individual contract" may include dependents.

~~((24))~~ (25) "Investment earnings" means the income, dividends, and realized capital gains earned on an asset.

~~((25))~~ (26) "Loss ratio" means "incurred claims" as a percentage of "earned premiums" before any deductions.

~~((26))~~ (27) "Medical care component of the consumer price index for all urban consumers" means the similarly

named figure published monthly by the United States Bureau of Labor Statistics.

~~((27))~~ (28) "Net worth or reserves and unassigned funds" means the excess of assets over liabilities on a statutory basis.

~~((28))~~ (29) "Plan" means a "contract" that is a health benefit plan as defined in RCW 48.43.005 or a "contract" for limited health care services as defined in RCW 48.44.035.

~~((29))~~ (30) "Premium" has the same meaning as that contained in RCW 48.43.005.

~~((30))~~ (31) "Premium rate" means the "premium" per "subscriber" or "covered person" obtained by adjusting the "base rate" for geographic area, family size, age, wellness activities, or any other factors as may be allowed.

~~((31))~~ (32) "Projected earned premium" means the "earned premium" that would be derived from applying the proposed "premium rates" to the current enrollment.

~~((32))~~ (33) "Projected incurred claims" means the estimate of "incurred claims" for the rate renewal period based on the current enrollment.

~~((33))~~ (34) "Proposed community rate" means the weighted average of the "community rates" at the renewal dates of each plan for the renewal period, with weights determined according to current enrollment.

~~((34))~~ (35) "Provider" has the same meaning as that contained in RCW 48.43.005.

~~((35))~~ (36) "Rate renewal period" means the period for which the proposed "premium rates" are intended to remain in effect.

~~((36))~~ (37) "Rate schedule" means the schedule of all "base rates" for "plans" included in the filing.

~~((37))~~ (38) "Requested increase in the community rate" means the amount, expressed as a percentage, by which the "proposed community rate" exceeds the "current community rate."

~~((38))~~ (39) "Service type" means the category of service for which "claims" are paid, such as hospital, professional, dental, prescription drug, or other.

~~((39))~~ (40) "Small group contracts" or "small group plans" means the class of "group contracts" issued to "small employers," as that term is defined in RCW 48.43.005.

~~((40))~~ (41) "Staffing data" means statistics on the number of providers and associated compensation required to provide a fixed number of services or provide services to a fixed number of "covered persons."

~~((41))~~ (42) "Stand-alone dental plan" means coverage for a set of benefits limited to oral care including, but not necessarily limited to, pediatric oral care.

(43) "Stand-alone vision plan" means coverage for a set of benefits limited to vision care including, but not necessarily limited to, materials.

(44) "Subscriber" means a person on whose behalf a "contract" or "certificate" is issued.

~~((42))~~ (45) "Unit cost data" means statistics on the cost per health care service provided to a "covered person."

~~((43))~~ (46) "Utilization data" means statistics on the number of services used by a fixed number of "covered persons" over a fixed length of time.

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-6060 General contents of all filings.

Each filing required by WAC ~~((284-43-920))~~ 284-43-6560 must be submitted with the filing transmittal form prescribed by and available from the commissioner. The form must include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information. Filings also must include the information required on the filing summary set forth in WAC ~~((284-43-945))~~ 284-43-6660 for individual and small group plans and rate schedules or as set forth in WAC ~~((284-43-950))~~ 284-43-6540 for group plans and rate schedules other than those for small groups.

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-6200 Geographic rating area factor development. (1) For nongrandfathered individual or small group health plans offered, issued or renewed on or after January 1, 2014, if an issuer elects to adjust its premium rates based on geographic area, the issuer must use the geographic rating areas designated in WAC ~~((284-170-252))~~ 284-43-6700.

(2) The premium ratio for the highest cost geographic rating area, when compared to the lowest cost geographic rating area, must not be more than 1.15.

(a) King County is the index geographic rating area for purposes of calculating the premium ratio. The geographic rating area factor for the index area must be set at 1.00.

(b) A health-status related factor may not be used to establish a rating factor for a geographic rating area. Health factor means any of the following:

- (i) Health status of enrollees or the population in an area;
- (ii) Medical condition of enrollees or the population in an area, including both physical and mental illnesses;
- (iii) Claims experience;
- (iv) Health services utilization in the area;
- (v) Medical history of enrollees or the population in an area;
- (vi) Genetic information of enrollees or the population in an area;
- (vii) Disability status of enrollees or the population in an area;
- (viii) Other evidence of insurability applicable to the area.

(3) Assignment of a factor to a geographic rating area must be actuarially sound and based on provider reimbursement differences. An issuer must fully document the basis for the assigned rating factors in the actuarial memo submitted with a rate filing.

(4) The geographic rating area factors must be applied uniformly to individuals or small groups applying for or receiving coverage from the issuer.

(5) For out-of-state enrollees covered under a health benefit plan issued to a Washington resident, an issuer must apply the geographic rating area factor based on the primary subscriber's Washington residence. For out-of-state enrollees who are covered under a health benefit plan issued through an

employer whose primary place of business is Washington, an issuer must apply the geographic rating area factor based on the employer's primary place of business.

(6) This section does not apply to stand alone dental plans offered on the Washington health benefit exchange.

AMENDATORY SECTION (Amending WSR 16-03-018, filed 1/8/16, effective 1/8/16)

WAC 284-43-6500 Applicability and scope. This subchapter is adopted under the general authority of RCW 48.02.060. This subchapter applies to health benefit plans as defined in RCW 48.43.005 (~~and~~), contracts for limited health care services as defined in RCW 48.44.035, stand-alone dental plans and stand-alone vision plans. This subchapter also applies to plans (~~issued or renewed on or after January 1, 2016,~~) offered by carriers under the requirements of (~~chapter 19, Laws of 2015~~) RCW 48.43.733.

NEW SECTION

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

Old WAC Number	New WAC Number
284-43-6060	284-43-6580
284-43-6080	284-43-6600
284-43-6120	284-43-6620
284-43-6140	284-43-6640
284-43-6160	284-43-6660
284-43-6200	284-43-6680
284-43-6220	284-43-6700

AMENDATORY SECTION (Amending WSR 83-14-002, filed 6/23/83, effective 9/1/83)

WAC 284-60-010 Scope. (1) This regulation, WAC 284-60-010 through 284-60-100, applies to all insurers and to every disability insurance policy form filed for approval in this state after August 31, 1983, except:

- (a) Additional indemnity and premium waiver forms for use only in conjunction with life insurance policies;
- (b) Medicare supplement policy forms which are regulated by chapter 284-55 WAC;
- (c) Credit insurance policy forms issued pursuant to chapter 48.34 RCW;
- (d) Group policy forms other than:
 - (i) Specified disease policy forms(~~(:)~~);
 - (ii) Policy forms, other than loss of income forms, as to which all or substantially all, of the premium is paid by the individuals insured thereunder(~~(:)~~);
 - (iii) Policy forms, other than loss of income forms, for issue to single employers insuring less than one hundred employees(~~(:)~~).
- (e) Policy forms filed by health care service contractors or health maintenance organizations;

(f) Policy forms initially approved before September 1, 1983, including subsequent requests for rate increases and modifications of rate manuals;

- (g) Health plans other than:
 - (i) Grandfathered individual health plans;
 - (ii) Grandfathered small group health plans.
- (h) Stand-alone dental only plans; and
- (i) Stand-alone vision only plans.

(2) Approvals of policy forms of the types subject to this regulation approved before September 1, 1983, and which are not in compliance with the provisions of this regulation on January 1, 1985, are hereby withdrawn as of January 1, 1985, and such forms shall not thereafter be used for new issues.

**WSR 16-23-021
PERMANENT RULES
HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed November 4, 2016, 2:50 p.m., effective January 1, 2017]

Effective Date of Rule: January 1, 2017.

Purpose: The agency:

- Revised these sections to reflect that beginning January 1, 2017, the health care authority is delegating third-party activities to agency-contracted managed care organizations.
- Revised the citation in WAC 182-538-150 (3)(b) to reflect that adoption support and foster care alumni can opt out of the apple health foster care program for any reason.
- Made housekeeping changes.

Citation of Existing Rules Affected by this Order: Amending WAC 182-501-0200, 182-538-130, and 182-538-150.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 16-12-089 on May 31, 2016.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: November 4, 2016.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-15-053, filed 7/9/15, effective 8/9/15)

WAC 182-501-0200 Third-party resources. (1) The medicaid agency requires a provider to seek timely reimbursement from a third party when a client has available third-party resources, except as described under subsections (2) and (3) of this section.

(2) The agency pays for medical services and seeks reimbursement from a liable third party when the claim is for any of the following:

- (a) Prenatal care;
- (b) Labor, delivery, and postpartum care (except inpatient hospital costs) for a pregnant woman; or
- (c) Preventive pediatric services as covered under the early and periodic screening, diagnosis and treatment program.

(3) The agency pays for medical services and seeks reimbursement from any liable third party when both of the following apply:

- (a) The provider submits to the agency documentation of billing the third party and the provider has not received payment after thirty days from the date of services; and
- (b) The claim is for a covered service provided to a client on whose behalf the office of support enforcement is enforcing an absent parent to pay support. For the purpose of this section, "is enforcing" means the absent parent either:
 - (i) Is not complying with an existing court order; or
 - (ii) Received payment directly from the third party and did not pay for the medical services.

(4) The provider may not bill the agency or the client for a covered service when a third party pays a provider the same amount as or more than the agency rate.

(5) When the provider receives payment from a third party after receiving reimbursement from the agency, the provider must refund to the agency the amount of the:

- (a) Third-party payment when the payment is less than the agency's maximum allowable rate; or
- (b) ~~(The)~~ Agency payment when the third-party payment is equal to or more than the agency's maximum allowable rate.

(6) The agency does not pay for medical services if third-party benefits are available to pay for the client's medical services when the provider bills the agency, except under subsections (2) and (3) of this section.

(7) The client is liable for charges for covered medical services that would be paid by the third-party payment when the client either:

- (a) Receives direct third-party reimbursement for the services; or
- (b) Fails to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered. See WAC 182-503-0540 for assignment of rights.

(8) The agency considers an adoptive family to be a third-party resource for the medical expenses of the birth mother and child only when there is a written contract between the adopting family and either the birth mother, the attorney, the provider, or the adoption service. The contract must specify that the adopting family will pay for the medical care associated with the pregnancy.

(9) A provider cannot refuse to furnish covered services to a client because of a third-party's potential liability for the services.

(10) For third-party liability on personal injury litigation claims, the agency or managed care organization (MCO) is responsible for providing medical services under WAC 182-501-0100.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-130 Exemptions and ending enrollment in managed care. (1) The agency approves a request to exempt((s)) a client from enrollment or to end enrollment from mandatory managed care when any of the following apply:

(a) The client ~~((has or the enrollee becomes))~~ or enrollee is eligible for medicare((, TRICARE, or any other third-party health care coverage comparable to the agency's managed care coverage));

(b) The client or enrollee is not eligible for managed care enrollment, for Washington apple health programs, or both; or

(c) A request for exemption or to end enrollment is received and approved by the agency as described in this section.

(i) If a client requests exemption within the notice period stated in WAC 182-538-060, the client is not enrolled until the agency approves or denies the request.

(ii) If an enrollee request to end enrollment is received after the enrollment effective date, the enrollee remains enrolled pending the agency's decision, unless continued enrollment creates loss of access to providers ~~((of))~~ for medically necessary care.

(2)(a) The following people may request ~~((that))~~ the agency ~~((exempt))~~ to approve an exemption or end enrollment in managed care ~~((as described in this section))~~:

- (i) A client or enrollee;
- (ii) A client or enrollee's authorized representative under WAC 182-503-0130; or
- (iii) A client or enrollee's representative as defined in RCW 7.70.065.

(b) The agency grants a request to exempt or to end enrollment in managed care when the client or enrollee:

- (i) Is American Indian or Alaska native;
- (ii) Lives in an area or is enrolled in a Washington apple health program in which participation in managed care is voluntary; or
- (iii) Requires care that meets the criteria in subsection (3) of this section for case-by-case clinical exemptions or ~~((ending of))~~ to end enrollment.

(3) Case-by-case clinical criteria to authorize an exemption ~~((for ending of))~~ or to end enrollment.

(a) The agency may approve a request for exemption or to end enrollment when the following criteria ~~((must be))~~ are met:

- (i) The care must be medically necessary;
- (ii) That medically necessary care is covered under the agency's managed care contracts;

(iii) The client is receiving the medically necessary care from an established provider or providers who ~~((is))~~ are not available through any contracted MCO; and

(iv) It is medically necessary to continue that care from the established provider or providers.

(b) When the agency approves a request for exemption or ~~((ending))~~ to end enrollment, the agency will notify the client or enrollee of its decision by telephone or in writing. If the agency approves the request for a limited time, the client or enrollee is notified of the time limitation and the process for renewing the exemption ~~((or the ending of enrollment))~~.

(c) When the agency denies a request for exemption or ~~((ending))~~ to end enrollment, the agency will notify the client or enrollee of its decision by telephone or in writing and confirms a telephone notification in writing. When a client or enrollee is limited-English proficient, the written notice must be available in the client's or enrollee's primary language under 42 C.F.R. 438.10. The written notice must contain all the following information:

- (i) The agency's decision;
- (ii) The reason for the decision;
- (iii) The specific rule or regulation supporting the decision; and
- (iv) The right to request an agency administrative hearing.

(4)~~((a))~~ If a client or enrollee does not agree with the agency's decision regarding a request for exemption or to end enrollment, the client or enrollee may file a request for an agency administrative hearing based on RCW 74.09.741, the rules in this chapter, and the agency hearing rules in chapter 182-526 WAC.

~~((b) A client seeking to remain unenrolled who appeals an agency denial retains that status pending the appeal if the appeal is filed within the time frames required in WAC 182-504-0130.)~~

(5) The agency will grant a request from an MCO to ~~((remove))~~ end enrollment of an enrollee ~~((from enrollment))~~ on a case-by-case basis when the request is submitted to the agency in writing and includes sufficient documentation for the agency to determine that the criteria ~~((for ending))~~ to end enrollment in this subsection is met.

(a) All of the following criteria must be met to end enrollment:

(i) The enrollee puts the safety or property of the contractor or the contractor's staff, providers, patients, or visitors at risk and the enrollee's conduct presents the threat of imminent harm to others, except for enrollees described in (c) of this subsection;

(ii) A clinically appropriate evaluation was conducted to determine whether there was a treatable problem contributing to the enrollee's behavior and there was not a treatable problem or the enrollee refused to participate;

(iii) The enrollee's health care needs have been coordinated as contractually required and the safety concerns cannot be addressed; and

(iv) The enrollee has received written notice from the MCO of its intent to request ~~((the enrollee's termination of))~~ to end enrollment of the enrollee, unless the requirement for notification has been waived by the agency because the enrollee's conduct presents the threat of imminent harm to

others. The MCO's notice to the enrollee includes the enrollee's right to use the MCO's grievance process to review the request to end ~~((the enrollee's))~~ enrollment.

(b) The agency will not approve a request to end enrollment when the request is solely due to any of the following:

- (i) An adverse change in the enrollee's health status;
- (ii) The cost of meeting the enrollee's health care needs or because of the enrollee's utilization of services;
- (iii) The enrollee's diminished mental capacity; or
- (iv) Uncooperative or disruptive behavior resulting from the enrollee's special needs or behavioral health condition, except when continued enrollment in the MCO or PCCM seriously impairs the entity's ability to furnish services to either this particular enrollee or other enrollees.

(c) When the agency receives a request from an MCO to ~~((remove an enrollee from))~~ end enrollment ~~((in managed care))~~ of an enrollee, the agency reviews each request on a case-by-case basis. The agency will respond to the MCO in writing with the decision. If the agency grants the request to end enrollment:

(i) The MCO will notify the enrollee in writing of the decision. The notice must include:

(A) The enrollee's right to use the MCO's grievance system as described in WAC 182-538-110; and

(B) The enrollee's right to use the agency's hearing process (see WAC 182-526-0200 for the hearing process for enrollees).

(ii) The agency will send a written notice to the enrollee at least ten calendar days in advance of the effective date that enrollment will end. The notice to the enrollee includes the information in subsection (3)(c) of this section.

(d) The MCO will continue to provide services to the enrollee until the date the individual is no longer enrolled.

(6) The agency may exempt the client for the period of time the circumstances or conditions described in this section are expected to exist. The agency may periodically review those circumstances or conditions to determine if they continue to exist. Any authorized exemption ~~((or ending of enrollment))~~ will continue only until the client can be enrolled in managed care.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-150 Apple health foster care program.

(1) Unless otherwise stated in this section, all of the provisions of chapter 182-538 WAC apply to apple health foster care (AHFC).

(2) The following sections of chapter 182-538 WAC do not apply to AHFC:

- (a) WAC 182-538-068;
- (b) WAC 182-538-071;
- (c) WAC 182-538-096; and
- (d) WAC 182-538-111.

(3)~~(a)~~ Enrollment in AHFC is voluntary for eligible individuals. The agency will enroll eligible individuals in the single MCO that serves children and youth in foster care and adoption support, and young adult alumni of the foster care system.

~~((a) The agency will not enroll a client in AHFC or will end an enrollee's enrollment in AHFC when the client has, or becomes eligible for, TRICARE or any other third-party health care coverage that would:~~

~~(i) Require the agency to either exempt the client from enrollment in managed care; or~~

~~(ii) End the enrollee's enrollment in managed care.)~~

(b) An AHFC enrollee may request ~~((exemption from enrollment or termination of))~~ to end enrollment in AHFC without cause if the client is in the adoption support or young adult alumni programs ~~((under))~~. WAC 182-538-130 does not apply to these requests.

(4) In addition to the scope of medical care services in WAC 182-538-095, AHFC coordinates health care services for enrollees with the department of social and health services community mental health system and other health care systems as needed.

(5) The agency sends written information about covered services when the individual becomes eligible to enroll in AHFC and at any time there is a change in covered services. In addition, the agency requires MCOs to provide new enrollees with written information about:

(a) Covered services;

(b) The right to grievances and appeals through the MCO; and

(c) Hearings through the agency.

WSR 16-23-030

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 8, 2016, 10:34 a.m., effective January 1, 2017]

Effective Date of Rule: January 1, 2017.

Purpose: Chapter 246-226 WAC, Radiation protection—Computed tomography, the rule establishes requirements in a new chapter of rules for the safe and effective use of computed tomography X-ray systems for diagnostic purposes.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080.

Adopted under notice filed as WSR 16-16-016 on July 21, 2016.

Changes Other than Editing from Proposed to Adopted Version: Nonsubstantive changes made: Changed the term "qualified medical physicist" to "medical physicist" to alleviate confusion with the American Association of Physicists in Medicines term "qualified medical physicist;" inserted effective date of the chapter throughout; and added a cross-reference to clarify WAC 246-226-090 (2)(j), to say "Protocol review as required in WAC 246-226-040(5)."

A final cost-benefit analysis is available by contacting Michelle Austin, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone (360) 236-3250, e-mail michelle.austin@doh.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 15, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 15, Amended 0, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 15, Amended 0, Repealed 0.

Date Adopted: November 8, 2016.

John Wiesman, DrPh, MPH
Secretary

Chapter 246-226 WAC

RADIATION PROTECTION—COMPUTED TOMOGRAPHY

NEW SECTION

WAC 246-226-001 Authority, purpose, and scope.

The requirements of this chapter are adopted pursuant to the provisions of chapter 70.98 RCW.

This chapter establishes CT X-ray system requirements for the intentional exposure of humans to ionizing radiation for diagnostic imaging.

NEW SECTION

WAC 246-226-006 Exemptions. (1) Registrants exclusively using low power CT X-ray systems (5 kW or less) or cone-beam CT X-ray systems are exempt from the requirements of this chapter and shall comply with chapter 246-225 WAC. Cone-beam CT X-ray system is a variation of gantry-style CT X-ray system that rotates around the patient, capturing data using a cone-shaped X-ray beam. This data is used to reconstruct a three-dimensional image.

(2) Registrants using CT simulators exclusively for treatment planning purposes in conjunction with a megavoltage radiation therapy or brachytherapy is exempt from the requirements of this chapter, except that the registrant shall comply with WAC 246-226-090, 246-240-113, and chapter 246-225 WAC.

NEW SECTION

WAC 246-226-007 Relationship to other regulations.

In addition to the requirements established in this chapter, registrants shall also comply with applicable requirements of the following:

- (1) Chapter 246-220 WAC;
- (2) Chapter 246-221 WAC;
- (3) Chapter 246-222 WAC;
- (4) Chapter 246-224 WAC;
- (5) Chapter 246-225 WAC; and
- (6) Chapter 246-254 WAC.

NEW SECTION

WAC 246-226-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section, WAC 246-220-010 and 246-225-010, apply throughout this chapter unless the context clearly indicates otherwise.

(1) "CT" or "computed tomography" means technology that uses computer-processed X rays to produce tomographic images (virtual slices) of specific areas of the patient's body or scanned object.

(2) "CTDI" or "computed tomography dose index" means the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic section thickness and the number of tomograms produced in a single scan that is:

$$CTDI = \frac{1}{NT} \int_{-\infty}^{\infty} D(z) dz ,$$

Where:

Z = Position along a line perpendicular to the tomographic plane;

D(z) = Dose at position z;

T = Nominal tomographic section thickness;

N = Number of tomograms produced in a single scan.

And:

The dose profile is centered around z and that, for a multiple tomogram system, the scan increment between adjacent scans is nT.

(3) "CTDI_{vol}" means the product of the CTDI_w and NT, divided by the table increment I and expressed as milliGray.

$$CTDI_{vol} = \frac{N \times T}{I} \times CTDI_w$$

(4) "CT dosimetry phantom" means an object used to determine the dose delivered by a CT X-ray system.

(5) "CTN" or "computed tomography number" means the number used to represent the X-ray attenuation associated with each elemental area of the CT image:

$$CTN = \frac{k(\mu_x - \mu_w)}{\mu_w}$$

Where:

k = A constant, a normal value of 1,000 when the Hounsfield scale of CTN is used;

μ_x = Linear attenuation coefficient of the material of interest;

μ_w = Linear attenuation coefficient of water.

(6) "CT procedure" means an activity directed at or performed on a patient necessary to make a diagnosis using a CT X-ray system including, but not limited to, setting, modifying, or applying parameters or protocols.

(7) "CT simulator" means a CT unit that allows for precise cancer treatment planning by demonstrating the relationship between the target tumor and healthy tissues while the patient is in a treatment position.

(8) "CT X-ray system" means a gantry-style X-ray system that generates a tomographic image through acquisition of cross-sectional image slices perpendicular to the plane of travel of the gantry.

(9) "Department" means the Washington state department of health.

(10) "Dose profile" means the dose as a function of position along a line.

(11) "DLP" or "dose length product" means the product of the CTDI_{vol} and the scan length of a single or group of scans performed on the same body part. This number can be calculated over the entire CT procedure to give an estimate of the total dose. The value is expressed in milliGray centimeters.

(12) "Filtration" means material placed in the beam to preferentially absorb low energy photons that contribute no diagnostically meaningful data to the image.

(13) "Fixed CT X-ray system" means a CT X-ray system that is permanently mounted in the building in which it is used or a portable CT X-ray system that is permanently stationed in one location.

(14) "Joint commission" means the independent, not-for-profit organization that accredits and certifies health care organizations and programs in the United States.

(15) "kW" or "kilowatts" means peak power, which is the highest rated kilovoltage of a CT X-ray system multiplied by the maximum rated amperage multiplied by the power factor.

(16) "Lead CT technologist" means the radiologic technologist licensed under chapter 18.84 RCW and designated by the registrant to perform the duties identified in this chapter. A licensed health care professional listed in RCW 18.130.040 acting within their scope of practice may also be designated by the registrant to perform the duties identified in this chapter.

(17) "Lead interpreting CT physician" means a physician licensed under chapter 18.71 or 18.57 RCW designated by the registrant to perform the duties identified in this chapter. A licensed health care professional listed in RCW 18.130.040 acting within their scope of practice may also be designated by the registrant to perform the duties identified in this chapter.

(18) "Medical physicist" means a physicist who meets the requirements of WAC 246-226-065.

(19) "Mobile CT X-ray system" means a CT X-ray system that is permanently mounted in a vehicle or trailer.

(20) "Noise" means the standard deviation of the fluctuations in CTN expressed as a percentage of the attenuation coefficient of water. Its estimate (S_n) is calculated using the following expression:

$$S_n = \frac{100 \cdot \bar{\mu} \cdot s}{\mu_w}$$

Where:

= Linear attenuation coefficient of the material of interest;

$\bar{\mu}$

μ_w = Linear attenuation coefficient of water;

s = Standard deviation of the CTN of picture elements in a specified area of the CT image.

(21) "Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross-sectional volume over which X-ray transmission data are collected.

(22) "Operator" means a Washington state licensed health care professional whose scope of practice includes CT diagnostics which includes choosing the appropriate scan protocol, appropriately adjusting parameters when necessary, and administering the CT procedure.

(23) "PACS" or "picture archiving and communication system" means a medical imaging technology that provides economical storage of and convenient access to images from CT.

(24) "Parameter" means settings on the CT X-ray system that can be modified including, but not limited to, peak tube potential in kV, filtration thickness, the tube current in mA and the exposure time in milliseconds, and the product of tube current and exposure time in mAs.

(25) "Physician" means an individual licensed under chapter 18.71 or 18.57 RCW.

(26) "Portable CT X-ray system" means a CT X-ray system that is not permanently mounted in a building, vehicle, or trailer and is able to move between locations of use.

(27) "Protocol" means the collection of settings and parameters affecting CT dose and image quality that specify how data collection and reconstruction, patient positioning, and contrast administration are performed.

(28) "Radiologic technologist" means an individual licensed under chapter 18.84 RCW.

(29) "Scan" means the complete process of collecting X-ray transmission data for the production of a tomogram.

(30) "Scan increment" means the amount of relative displacement of the patient with respect to the CT X-ray system between successive scans measured along the direction of such displacement.

(31) "Sensitivity profile" means the relative response of the CT X-ray system as a function of position along a line perpendicular to the tomographic plane.

(32) "SSDE" or "size specific dose estimate" means a patient dose estimate which takes into consideration correc-

tions based on the size of the patient using linear dimensions measured on the patients or the patient images.

(33) "Tomogram" means a two dimensional image representing a slice or section through a three dimensional object using a CT X-ray system.

(34) "Tomographic plane" means the geometric plane which is identified as corresponding to the tomogram.

(35) "Tomographic section" means the volume of an object whose X-ray attenuation properties are imaged in a tomogram.

NEW SECTION

WAC 246-226-020 Equipment requirements. The CT X-ray system must:

(1) Meet the requirements of 21 C.F.R. Sec. 1020.33 (last amended June 10, 2005) at the time of installation and while the CT X-ray system is registered with the department under chapter 246-224 WAC; and

(2) Be equipped:

(a) With a visible signal that indicates when the X-ray exposure is occurring;

(b) So that the operator can immediately terminate an X-ray exposure of greater than one-half second duration at any time during the X-ray exposure;

(c) So that the parameters used during a CT procedure are:

(i) Displayed prior to beginning a scan; and

(ii) Visible by the operator from any location scanning can be initiated.

(d) So that radiation leakage from the tube port does not exceed limits established in WAC 246-225-040 (3) and (4) when data are not being collected for image production;

(e) So that the accuracy of the laser or optical positioning system is within five millimeters maximum deviation on the axial position (z-axis);

(f) With an X-ray production indicator of at least one-half second at or near the gantry that is visible from any point outside the gantry opening;

(g) So that premature termination of the X-ray exposure by the operator requires resetting of the parameters prior to initiating another scan.

NEW SECTION

WAC 246-226-030 Design requirements. (1) The location of a CT X-ray system must be designed and constructed:

(a) To provide for two-way verbal communication between the patient and the operator at the control panel;

(b) To allow the operator to continuously observe the patient from the control panel during irradiation using windows, mirrors, closed-circuit television, or an equivalent method; and

(c) With an alternate viewing system when the primary viewing system is electronic.

(2) After **January 1, 2017**, and within thirty days of first use of a CT X-ray system, the registrant shall complete and keep on file a radiation protection survey of the room and surrounding areas consistent with *National Council on Radiation Protection and Measurements Report #147* (2004). For

CT X-ray systems in use before **January 1, 2017**, the registrant shall complete the radiation protection survey by **January 1, 2019**, and keep on file.

(3) For fixed or mobile CT X-ray systems:

(a) Installed after January 1, 2017, the operator's booth and surrounding occupied areas must be designed and constructed in accordance with the *National Council on Radiation Protection and Measurements Report #147* (2004);

(b) Protective barriers must be provided in the ceiling, floor, and walls of the CT X-ray system enclosure to ensure exposure does not exceed dose limits established in chapter 246-221 WAC; and

(c) The control panel must be shielded by a protective barrier that cannot be removed from a protective position between the operator and the radiation source during CT X-ray system operation.

(4) The registrant shall submit a revised radiation shielding plan for department review in accordance with WAC 246-225-030 after replacement of the CT X-ray system, or any change in the CT X-ray system room's construction or surrounding rooms' construction.

(5) Rooms in which a portable CT X-ray system is used are exempt from the requirements of subsections (2), (3), and (4) of this section. However, the operator must be protected to ensure exposure does not exceed dose limits established in chapter 246-221 WAC.

NEW SECTION

WAC 246-226-040 Operating procedures. (1) The registrant shall:

(a) Establish a procedure to record and retrieve CTDI_{vol}, DLP and, when available on the CT X-ray system, SSDE data from every CT procedure performed; and

(b) If available, send each protocol page that lists the technique factors electronically to the PACS.

(2) The registrant shall provide estimated patient dose for an individual study within ten business days of a patient request.

(3) **Effective July 1, 2017**, the registrant shall establish CT procedures for each CT X-ray system in consultation with a medical physicist and the lead interpreting CT physician, or lead CT technologist to ensure they are correct for the intended dose and image quality. The CT procedures must include:

(a) Pediatric CT protocols for each CT X-ray system used for pediatric patients.

(b) Procedural, software, and engineering measures that prohibit anyone from changing protocols or parameters without approval from the lead CT technologist or the lead interpreting CT physician, such as password protection.

(c) Documentation of protocol or parameter changes must be maintained consistent with the requirements of WAC 246-226-100.

(4) The registrant may not allow the CT manufacturer's technical or applications representatives to make protocol changes or other software changes or upgrades that would impact radiation dose or image quality without the approval of the lead interpreting CT physician, the lead CT technologist, or the medical physicist.

(5) **Effective January 1, 2018**, the registrant shall review CT protocols in consultation with a medical physicist and the lead interpreting CT physician, or lead CT technologist to ensure they are correct for the intended dose and image quality as follows:

(a) Review all CT protocols upon installation of a CT X-ray system;

(b) Annually review the following protocols:

(i) New or changed protocols since the last review;

(ii) Pediatric head;

(iii) Pediatric abdomen;

(iv) Adult head;

(v) Adult abdomen;

(vi) High resolution chest; and

(vii) Brain perfusion.

(c) If the facility does not perform the procedures listed in (b)(ii) through (vii) of this subsection, the registrant shall annually review the most frequently performed or highest dose protocols so that a total of at least six protocols are reviewed annually.

(d) As part of the review, the registrant shall:

(i) Compare current protocols to the dose assessments that were made during the last annual performance evaluation required in WAC 246-226-090;

(ii) Determine whether the protocols from each CT procedure are appropriate, can be modified to lower the CTDI_{vol} without an unacceptable sacrifice in image quality, or can be eliminated;

(iii) Establish protocols to maintain image quality at the optimal noise level (standard deviation) within dose levels established in WAC 246-226-050.

(iv) Establish guidelines of variability that establish parameter and protocol limits.

(6) The registrant shall limit the use of the CT X-ray system to those permitted by the established guidelines of variability.

(7) The operator may adjust parameters or protocols for a CT procedure as long as they remain within the approved limits established in the guidelines of variability.

(8) The operator shall check the display panel before and after performing each scan to make sure the amount of radiation delivered is appropriate for the CT procedure and individual patient. This may be accomplished by reviewing dose indicator devices if available or dose indices. The operator shall document dose indicators or indices outside expected values and submit the documentation to the lead interpreting CT physician or medical physicist for review.

(9) Each registrant shall create a written policy establishing procedures for retaking CT scans including, but not limited to, how many scans are authorized for a patient and who can authorize additional retakes. The policy must be approved by the lead interpreting CT physician.

(10) When a patient must be held in position for a CT procedure, mechanical supporting or restraining devices must be used unless contraindicated. If the patient must be held by an individual, the individual shall:

(a) Wear protective gloves and a protective apron of at least 0.5 millimeter lead equivalent;

(b) Be positioned so that no part of his or her body will be struck by the useful beam; and

(c) Be positioned so that his or her body is as far as possible from the edge of the useful beam.

(11) If staff routinely working with or around radiation sources hold patients during CT procedures, personnel exposure may not exceed the dose limits established in chapter 246-221 WAC.

(12) Only individuals whose presence is necessary are allowed in a CT X-ray system room during exposure. Each individual, except the patient, shall be protected by at least 0.5 millimeter lead equivalent apron or a whole body protective barrier.

NEW SECTION

WAC 246-226-050 Dose limits. The CTDI_{vol} for the following CT procedure on phantoms may not exceed the dose limits established in Table 1.

Table 1: Dose limits

CT Procedure	Phantom Size	Dose Limit: CTDI _{vol} (mGy)
Adult head	16 cm	80
Adult abdomen	32 cm	30
Pediatric head (one year old)	16 cm	40
Pediatric abdomen (40 pounds)	16 cm	20

NEW SECTION

WAC 246-226-060 CT events. (1) The purpose of this section is to improve patient safety by supporting health care providers and facilities in their efforts to reduce the incidence of medical errors that contribute to deterministic injurious health effects. This rule does not relieve the department of its statutory obligation to enforce this and other radiation protection laws.

(2) The registrant shall initiate an investigation within twenty-four hours and complete the investigation within ten business days when:

(a) The cumulative CTDI_{vol} over the course of an individual study at a particular anatomical location exceeds 600 mGy for a pediatric CT procedure or 1500 mGy for an adult CT procedure; or

(b) Any ionizing radiation exposure from a CT procedure results in unanticipated hair loss, erythema, or functional damage to an organ or physiological system.

(3) For each event, the registrant shall conduct a root cause analysis in consultation with a medical physicist, the lead interpreting CT physician, lead CT technologist, and the operator who performed the CT procedure. The root cause analysis must:

(a) Follow the procedures and methods of:

(i) The joint commission;

(ii) The department of veterans affairs national center for patient safety; or

(iii) A department-approved nationally recognized root cause analysis methodology.

(b) Include the following information:

(i) The findings regarding the root cause of the event;

(ii) The number and types of health professionals present at the time the reported event occurred;

(iii) A corrective action plan consistent with the findings of the root cause analysis and including:

(A) How each finding will be addressed and corrected;

(B) When each correction will be completed;

(C) Who is responsible to implement the corrections;

(D) What action will be taken to prevent the event from recurring; and

(iv) A monitoring schedule to assess the effectiveness of the corrective action plan, including who is responsible for the monitoring schedule.

(c) If the registrant determines there is no need to create a corrective action plan for a particular event, include a written explanation for the determination.

(4) The root cause analysis must not include any identifying information for any health care professional, facility employee, or patient involved.

(5) The registrant shall make appropriate modifications consistent with the corrective action plan to prevent future events.

(6) This rule does not remove a registrant's responsibility to report a licensed practitioner's unprofessional conduct to the department, as defined under RCW 18.130.180.

(7) A registrant is exempt from the requirements of this section when the registrant is subject to other coordinated quality improvement requirements under RCW 70.41.200 or 70.230.080, and includes CT events as part of the required coordinated quality improvement program.

(8) A registrant is exempt from the requirements of this section when the registrant includes CT events as part of a department-approved coordinated quality improvement program under RCW 43.70.510.

NEW SECTION

WAC 246-226-065 Medical physicist. A medical physicist must meet the requirements of either subsection (1), (2), or (3) of this section, and meet the continuing education and experience requirements of subsections (4) and (5) of this section to perform the duties of a medical physicist. To qualify as a medical physicist, an individual must:

(1) Hold a valid certificate in:

(a) Diagnostic radiological physics or radiological physics from the American Board of Radiology;

(b) Diagnostic imaging physics from the American Board of Medical Physics; or

(c) Diagnostic radiology physics from the Canadian College of Physicists in Medicine.

(2) Complete the following education and experience:

(a) Graduate from an accredited institution with a graduate degree in medical physics, radiological physics, physics, or another relevant physical science or engineering discipline; including formal course work in the biological sciences with at least:

(i) One course in biology or radiation biology; and

(ii) One course in anatomy, physiology, or similar topics related to the practice of medical physics.

(b) Three years of documented experience in a clinical CT environment.

(3) Independently evaluated at least three CT X-ray systems in accordance with this chapter between January 1, 2014, and January 1, 2017.

(4) Continuing education:

(a) The medical physicist must have earned at least fifteen continuing medical education units in the three years preceding any department review or inspection.

(i) At least half the units must be accredited by the Accreditation Council for Continuing Medical Education or equivalent accreditation; and

(ii) At least one of the units must pertain to CT.

(b) The requirements of this subsection are waived if it has been less than three years since the medical physicist met the requirements under subsection (2) of this section.

(5) Continuing experience: The medical physicist must meet (a) or (b) of this subsection in the two years preceding any department review or inspection:

(a) Independently evaluated at least two CT X-ray systems in accordance with this chapter; or

(b) Evaluated at least five CT X-ray systems in accordance with this chapter under the direct supervision of a medical physicist;

(c) The requirements of this subsection are waived if it has been less than two years since the medical physicist met the requirements of subsection (2) or (3) of this section.

NEW SECTION

WAC 246-226-070 Staffing requirements. (1) Each registrant with a CT X-ray system shall employ or contract with a licensed health care professional to perform CT procedures. Nothing in this chapter prohibits the registrant from requiring the employed or contracted radiologic technologist to hold a recognized national certification or other accreditation relevant to CT, such as an American Registry of Radiologic Technologists (ARRT) CT certification, prior to performing CT procedures.

(2) The registrant shall provide training to operators performing CT procedures within six months of employment and annually thereafter. Training must be documented for all radiologic technologists in a single training log. The training must be equivalent to the International Atomic Energy Agency, *10 Pearls: Radiation Protection of Patients in CT*. This document is located on the department's web site at <http://www.doh.wa.gov/CommunityandEnvironment/Radiation/XRay>

(3) Each registrant with a CT X-ray system shall employ or contract with a medical physicist and verify the medical physicist meets the requirements of WAC 246-226-065 to perform the activities of the medical physicist specified in this chapter.

(4) The registrant shall appoint a lead interpreting CT physician and a lead CT technologist to work cooperatively to:

(a) Develop, implement, and enforce policies, procedures, and registrant requirements that address:

(i) Radiation protection, the hazards of radiation exposure to both patients and facility personnel, and appropriate monitoring;

(ii) Identification of pregnant or potentially pregnant patients; and

(iii) Safety issues, including contrast use and sedation, and reducing exposure as much as reasonably possible for pediatric patients;

(b) Ensure that a physician is present and immediately available when contrast is administered to a patient; and

(c) Be responsible for:

(i) Implementing the quality control program required in WAC 246-226-080;

(ii) Ensuring compliance with the recommendations of the medical physicist; and

(iii) Overseeing all CT-related materials including, but not limited to, clinical and phantom images, quality control data, and other information required by this chapter.

NEW SECTION

WAC 246-226-080 Quality control program. (1) The registrant shall establish, document, and implement a quality control program in consultation with the medical physicist before using a CT X-ray system. The quality control program must be consistent with the manufacturer's recommended quality control standards if available. The quality control program must include, but is not limited to, the following:

(a) On each day of clinical use, measurement of water CTN and standard deviation;

(b) On each day of clinical use, artifact evaluation;

(c) For registrants using wet laser hardcopy for primary interpretation, weekly printer quality control;

(d) Monthly visual checklist;

(e) For registrants using dry laser hardcopy for primary interpretation, monthly printer quality control; and

(f) Monthly display monitors quality control.

(2) If the results of an evaluation included in the quality control program do not meet the requirements of this chapter, the registrant, in consultation with the medical physicist, shall modify the quality control program and document the changes.

NEW SECTION

WAC 246-226-090 Performance evaluation. The medical physicist shall conduct a performance evaluation to assess the quality and safety of the CT X-ray system and its operation.

(1) A performance evaluation must be conducted:

(a) Within thirty days of installation if the CT X-ray system passes all manufacture installation tests;

(b) Annually following the initial evaluation; and

(c) After any change, replacement, or reconfiguration of components which, in the opinion of the medical physicist, could cause a change in the radiation output or image quality.

(2) A performance evaluation must evaluate:

(a) Alignment light accuracy;

(b) Slice localization from scanned projection radiograph;

(c) Table increment and travel accuracy;

- (d) Slice thickness accuracy;
- (e) Image quality, including the following:
 - (i) High-contrast resolution;
 - (ii) Low-contrast resolution;
 - (iii) Image uniformity;
 - (iv) Noise; and
 - (v) Artifact evaluation.
- (f) Gray level performance of CT acquisition display monitors;
 - (g) CTN uniformity, accuracy, and linearity;
 - (h) Safety, including the following:
 - (i) Visual inspection;
 - (ii) Audible and visual signals; and
 - (iii) Posting requirements.
 - (i) The ongoing quality control program under WAC 246-226-080, including evaluation results and corrective actions;
 - (j) Protocol review as required in WAC 246-226-040(5);
 - (k) Radiation output by:
 - (i) Using a calibrated dosimetry system that:
 - (A) Has been calibrated within the preceding twenty-four months; and
 - (B) Is traceable to a national standard.
 - (ii) Using a CT dosimetry phantom that:
 - (A) Is a right circular cylinder of polymethyl methacrylate of density 1.19 plus or minus 0.01 grams per cubic centimeter;
 - (B) Is at least 14 centimeters in length;
 - (C) Is 32.0 centimeters in diameter for evaluating CT X-ray systems designed to image any section of the body;
 - (D) Is 16.0 centimeters for systems designed to image the head, or for whole body CT X-ray systems operated in the head scanning mode; and
 - (E) Provides for the placement of a dosimeter along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeters from the outer surface and within the phantom. The medical physicist may place additional dosimeters or alignment devices at other locations.
 - (iii) Performing all dose assessments with the CT dosimetry phantom placed on the patient support device without additional attenuation materials present;
 - (iv) Measuring the $CTDI_{vol}$ by orienting the CT dosimetry phantom so that the measurement point 1.0 centimeter from the peripheral outer surface of the phantom and the measurement point along the axial line of the phantom is in the same angular position within the gantry as the point of maximum surface $CTDI_{vol}$ identified. The parameters must correspond to typical values used for the average patient protocol. For the purpose of determining the $CTDI_{vol}$, the manufacturer's nominal tomographic section thickness for that particular CT X-ray system may be used.
 - (l) Accuracy of the displayed dose on the CT X-ray system console and verify the displayed dose is within twenty percent of the measured dose.
- (3) The medical physicist shall prepare a performance evaluation report and provide it to the registrant within thirty days of completing the performance evaluation. The report must include:
 - (a) A summary of the performance evaluation required under this section.

- (b) Recommendations for improvements, if any.
- (c) Type of radiation detection instrument or system used, including the date of the last calibration.

NEW SECTION

WAC 246-226-100 Required records and reports. (1)

The registrant shall maintain written information regarding the operation and calibration of the CT X-ray system including, but not limited to, the following:

- (a) Dates of the latest calibration and where the results are located; and
- (b) Quality control program results required under WAC 246-226-080 of at least the most recent quality control evaluation, and all additional schedules of evaluation established by the medical physicist appropriate for the CT X-ray system.
- (2) A registrant shall maintain the following documents for the durations specified and make them available for review by the department upon request:
 - (a) The most recent radiation protection survey and radiation shielding plan required under WAC 246-226-030 must be retained for as long as the CT X-ray system is in use.
 - (b) Written approval of the most recent annual review under WAC 246-226-040 for each CT X-ray system with date and signature of the registrant, medical physicist, and lead interpreting CT physician.
 - (c) Most recent performance evaluation report required under WAC 246-226-090.
 - (d) Records documenting the qualifications of all personnel who worked with the CT X-ray system as a physician, radiologic technologist, and employed or contracted medical physicist, during the past three years. Records of personnel no longer employed by the CT facility must be retained until the next department inspection following the employee's termination has been completed and the department has determined that the facility is in compliance with the staffing requirements of WAC 246-226-070.
 - (e) Training log required under WAC 246-226-070, must be retained for at least three years.
 - (f) All root cause analyses and corrective actions plans required under WAC 246-226-060, must be retained for at least ten years.

NEW SECTION

WAC 246-226-110 Variance request. A registrant may submit a written request to the department for a variance from the applicable regulations. The registrant shall not use CT X-ray system on patients until the department approves the variance request.

- (1) The written request shall be addressed to: X-ray Supervisor, Office of Radiation Protection, Department of Health, P.O. Box 47827, Olympia, WA 98504-7827, and must include:
 - (a) The specific WAC reference or references of the rule for which the variance is requested;
 - (b) An explanation of the circumstances involved, and the reason why the rule cannot be followed;
 - (c) A description of how the proposed alternative meets the intent of the rule and how the registrant shall protect patients, employees, and the public;

(d) A description of the CT X-ray system to be used with supporting pictures or documents; and

(e) The time period for which the variance is requested.

(2) The department may grant a variance if it determines the variance is authorized by law and will not result in undue hazard to public health and safety or property. The department may impose conditions that are necessary to protect human health and safety during the term of the variance.

(3) The department may require the registrant to submit additional information.

(4) The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary.

(5) As determined by the department, variances can be permanent or temporary.

(6) The department may at any time revoke a variance if it is determined that the conditions of the variance are not being followed.

WSR 16-23-036
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 8, 2016, 3:04 p.m., effective December 9, 2016]

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

Purpose: Amends WAC 181-85-075 to clarify renewal date for new requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 181-85-075.

Statutory Authority for Adoption: Chapter 28A.410 RCW, RCW 28A.410.278.

Adopted under notice filed as WSR 16-20-071 on October 3, 2016.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

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

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

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

Date Adopted: November 8, 2016.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 16-07-095, filed 3/18/16, effective 4/18/16)

WAC 181-85-075 Continuing education requirement. Continuing education requirements are as follows:

(1) Each holder of a continuing certificate affected by this chapter shall be required to complete during a five-year period one hundred fifty continuing education credit hours, as defined in WAC 181-85-025 and 181-85-030, prior to the lapse date of the first issue of the continuing certificate and during each five-year period between subsequent lapse dates as calculated in WAC 181-85-100.

(2) Individuals holding a valid continuing certificate in subsection (1) of this section may choose to renew the certificate via annual professional growth plans developed since the certificate was issued. Completion of four annual professional growth plans during each five-year period between subsequent lapse dates meets the requirement for renewal. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred fifty hours to meet the requirements of subsection (1) of this section. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207 for teachers, WAC 181-78A-540(1) for administrators, or WAC 181-78A-540(2) for educational staff associates. For educators holding multiple certificates in chapter 181-85 WAC or WAC 181-79A-251, a professional growth plan for teacher, administrator, or educational staff associate shall meet the requirement for all certificates held by an individual which is affected by this section. Each completed annual professional growth plan shall receive the equivalent of thirty continuing education credit hours.

Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(3) Provided, That each holder of a continuing or a standard certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

(4) Each holder of a continuing school psychologist certificate affected by this chapter may present a copy of a valid National Certified School Psychologist certificate issued by the National Association of School Psychologists in lieu of the completion of the continuing education credit hours required by this chapter.

(5) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and/or engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to the following endorsement areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics; secondary science; the designated sciences; and career and technical education. ((Certificates with a renewal date of June 30,)) Applications for certificate renewal dated September 1, 2019, and beyond must demon-

strate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan with an emphasis on the integration of science, technology, engineering, and mathematics.

(6) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. ~~((Certificates with a renewal date of June 30,))~~ Applications for certificate renewal dated September 1, 2019, and beyond for all teachers, principals, program administrators, and superintendents with continuing certificates must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system.

WSR 16-23-047
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Behavioral Health Administration)

[Filed November 10, 2016, 9:02 a.m., effective December 11, 2016]

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

Purpose: The department is repealing WAC 388-865-0260 Mental health professionals and specialists, which was inadvertently left off the list of sections proposed for repeal under WSR 16-07-152 filed on March 23, 2016. The language in this section was updated and incorporated in WAC 388-877-0410, 388-877-0420, 388-877-0500, and other sections in chapter 388-877 WAC, Behavioral health services administrative requirements. The other regional support network rules that were proposed for repeal under WSR 16-07-152 were repealed under WSR 16-13-087 filed on June 15, 2016.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0260.

Statutory Authority for Adoption: RCW 71.24.035 (5)(c).

Adopted under notice filed as WSR 16-13-154 on June 22, 2016.

A final cost-benefit analysis is available by contacting Kathy Sayre, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 725-1342, fax (360) 586-0341, e-mail kathy.sayre@dshs.wa.gov.

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

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

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

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

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

Date Adopted: November 9, 2016.

Katherine I. Vasquez
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-865-0260 Mental health professionals and specialists.

WSR 16-23-056
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2016-18—Filed November 10, 2016, 10:58 a.m., effective December 11, 2016]

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

Purpose: This proposed rule will amend language and add a new section to WAC 284-20-300 to require that the following statement is included in any rejection form when a motorist is rejecting underinsured motorist coverage, "In order to provide for an informed decision of the potential consequences of rejecting underinsured motorist coverage; the undersigned acknowledges that by rejecting underinsured motorist coverage there is exposure to the risk of not being sufficiently insured for injury and/or damages when involved in an accident with a driver of an underinsured vehicle."

Citation of Existing Rules Affected by this Order: Amending WAC 284-20-300.

Statutory Authority for Adoption: RCW 48.02.060 (3)(a), 48.22.030(4).

Adopted under notice filed as WSR 16-17-124 on August 23, 2016.

A final cost-benefit analysis is available by contacting Stacy Middleton, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-9651, fax (360) 586-3109, e-mail rules.coordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: November 10, 2016.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 10-10-058, filed 4/29/10, effective 5/30/10)

WAC 284-20-300 Mandatory offering of personal injury protection and required language when underinsured motorist coverage is rejected. (1) Insurers issuing an automobile liability insurance policy must offer the minimum personal injury protection coverage limits required in RCW 48.22.095, and must make available, if requested, additional personal injury protection limits as defined in RCW 48.22.100. Insurers may also offer other personal injury protection limits, in addition to these required offerings.

(2) If the named insured rejects personal injury protection coverage, the insurer must promptly delete the coverage after the insurer receives the rejection notice from the named insured. The insurer must retain a copy of the rejection notice or request to delete coverage with the policy record.

(3) The written rejection of underinsured motorist coverage, as allowed by RCW 48.22.030(4), must include the following statement. "In order to provide for an informed decision of the potential consequences of rejecting underinsured motorist coverage; the undersigned acknowledges that by rejecting underinsured motorist coverage there is exposure to the risk of not being sufficiently insured for injury and/or damages when involved in an accident with a driver of an underinsured vehicle." Such notice shall be prominently placed above the signature area and be bold.

(4) Insurers may use electronic forms, electronic signatures and electronic attestations, in accordance with 15 U.S.C. Sec. 7001, to comply with this rule. The insurer must maintain an auditable compliance record and provide this information to the commissioner upon request.

~~((4))~~ (5) This section does not apply to corporations, partnerships, or any other nonhuman entity named as the insured.

WSR 16-23-064
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 14, 2016, 2:05 p.m., effective December 15, 2016]

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

Purpose: Amends WAC 181-77-031, 181-77-041 and 181-77-081, to clarify renewal date, and the addition per RCW 28A.410.278 of evaluation training requirements. Clar-

ifies the name of the career and technical education certificate for career guidance specialist.

Citation of Existing Rules Affected by this Order: Amending WAC 181-77-031, 181-77-041, and 181-77-081.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 16-18-004 on August 25, 2016.

Changes Other than Editing from Proposed to Adopted Version: Clarifying language and error on date changed by board action.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 14, 2016.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 16-07-096, filed 3/18/16, effective 4/18/16)

WAC 181-77-031 Requirements for candidates seeking career and technical education certification who have completed approved college/university programs in a career and technical education endorsement area. Candidates shall complete the following requirements in addition to those set forth in WAC 181-79A-150, 181-79A-155, 181-82-322, and chapter 181-78A WAC.

(1) Initial.

(a) Candidates for the initial certificate shall hold a baccalaureate degree from a regionally accredited college or university which includes a minimum of forty-five quarter hours of study in the specific career and technical education subject area for which certification is sought.

(b) Candidates for the initial certificate shall demonstrate competency in one or more of the specific endorsement areas of WAC 181-82-322.

(c) Candidates for the initial certificate shall complete a state approved career and technical education teacher training program through a regionally accredited college or university which shall include completion of student teaching in the relevant career and technical education subject area.

(d) Candidates for the initial certificate shall provide documentation of one year of paid occupational experience

(two thousand hours) in the specific career and technical education field for which certification is sought. If all or part of the two thousand hours is more than six years old, candidates must complete an additional three hundred hours of recent (occurring in the last two years) occupational experience. The candidate must also apply for the residency teacher certificate or add the subject area to their basic education certificate in their subject area, take and pass the content knowledge test(s) for subject area, be issued the residency teacher certificate before the CTE initial can be issued.

(e) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) Initial renewal. Candidates for renewal of the initial certificate must complete three quarter hours of credit or thirty clock hours of career and technical education educator training in the subject area certified to teach since the initial certificate was issued or renewed.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least nine quarter hours or ninety clock hours of career and technical education educator training in the career and technical education subject area to be certified completed subsequent to the conferral of the baccalaureate degree.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject area certified to teach with an authorized employer(—) (i.e., school district(s) or skills center(s)).

(4) Continuing certificate renewal. Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued one of the following:

(a) Six quarter hours or sixty clock hours of career and technical education educator training;

(b) Three quarter hours or thirty clock hours of career and technical education educator training and three quarter hours or thirty clock hours of technical education/upgrading;

(c) Three quarter hours or thirty clock hours of career and technical education educator training and three hundred hours of occupational experience;

(d) Provided, beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsements. ~~((Certificates with a renewal date of June 30, 2019))~~ Applications for certificate renewal dated September 1, 2019, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, with an emphasis on the integration of science, technology, engineering and mathematics;

(e) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional

development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Applications for certificate renewal dated September 1, 2019, and beyond for all teachers must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system.

AMENDATORY SECTION (Amending WSR 16-15-057, filed 7/18/16, effective 8/18/16)

WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. Candidates for certification who have not completed approved programs set forth in WAC 181-82-322 shall complete the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155 (1) and (2).

(1) Initial.

(a) Candidates for the initial certificate shall provide documentation of paid occupational experience in the specific career and technical education subcategory for which certification is sought: Provided, That individuals seeking the initial certification for the sole purpose of instruction of American sign language who are deaf, hard of hearing per RCW 43.20A.720, or who's primary method of communication is American sign language, may have the requirements for interpreter experience waived by the certification office of the superintendent of public instruction.

(i) Three years (six thousand hours) is required.

(ii) One year (two thousand hours) must be within the past six years. Candidates may use up to four thousand hours of teaching experience in the specialty area they are experienced in and the remaining two thousand hours must be from industry experience (nonteaching). For STEM, candidate may use all six thousand hours of teaching experience in science, technology, engineering and/or math in lieu of industry experience. For biomedical and biotechnology, candidates may use all six thousand hours of teaching experience in biology in lieu of industry experience.

(iii) If all or part of the two thousand hours is more than six years old, an additional three hundred hours of recent (occurring in the last two years) occupational experience is required.

(iv) Individuals seeking this certification solely for teaching American sign language must also hold or earn the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, the American sign language performance interview, or meet the standard required of interpreters for the deaf per RCW 28A.410.271.

(b) Candidates for the initial certificate shall complete a professional educator standards board approved program under WAC 181-77A-029 in which they demonstrate competence in the general standards for all career and technical education teacher certificate candidates pursuant to WAC 181-77A-165, which include but are not limited to knowledge and skills in the following areas:

- (i) General and specific safety;
- (ii) Career and technical education teaching methods;
- (iii) Occupational analysis;
- (iv) Course organization and curriculum design;
- (v) Philosophy of vocational education;
- (vi) Personal student development and leadership techniques.

(c) Candidates for the initial certificate shall also demonstrate knowledge and skills in the following areas:

- (i) School law;
- (ii) Issues related to abuse as specified in WAC 181-77A-165(7).

(d) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) Initial renewal. Candidates for renewal of the initial certificate must complete three quarter hours of credit or thirty clock hours of career and technical education educator training in the subject matter certified to teach since the initial certificate was issued or renewed.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least nine quarter hours or ninety clock hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer(-) (i.e., school district(s) or skills center(s)).

(4) Continuing certificate renewal.

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued one of the following:

- (i) Six quarter hours or sixty clock hours of career and technical education educator training;
- (ii) Three quarter hours or thirty clock hours of career and technical education educator training and three quarter hours or thirty clock hours of technical education/upgrading;
- (iii) Three quarter hours or thirty clock hours of career and technical education educator training and three hundred hours of occupational experience(~~(;~~

~~(iv))~~.

(b) Provided, beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsements. Applications for renewal dated September 1, 2018, and beyond must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, with an emphasis on the integration of science, technology, engineering and mathematics.

~~((b))~~ (c) Provided, as per RCW 28A.410.278(2) beginning September 1, 2016, in-service training, continuing education, or professional growth plans shall incorporate professional development on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates. Applications for certificate renewal dated September 1, 2018, and beyond for all teachers must document completion of at least fifteen clock hours, or at least one goal from an annual professional growth plan, related to knowledge and competency of the teacher and principal evaluation criteria or system.

(d) Beginning January 2018, renewal of continuing certificates under this section specifically for teaching American sign language will require the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, or meet the standard required of interpreters of the deaf per RCW 28A.410-271.

AMENDATORY SECTION (Amending WSR 16-12-025, filed 5/23/16, effective 6/23/16)

WAC 181-77-081 Requirements for certification of career guidance specialist. Career guidance specialists must meet the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155:

(1) Probationary certificate.

(a) Beginning July 1, 2018, a candidate is eligible for the probationary career guidance specialist certification if meeting one of the following:

(i) Completion of three years of experience as a certificated career and technical education administrator, career and technical education instructor, or career and technical education counselor, at the initial or continuing certificate level; or

(ii) Hold a valid educational staff associate(~~(—))~~ - Counselor certificate as provided in WAC 181-79A-221; or

(iii) Provide documentation of three years (six thousand hours) of full-time paid occupational experience of which two years shall have been in the last six years, dealing with employment, personnel or with placement and evaluation of workers, or experience providing career guidance, employment or career counseling services.

(b) Such a certificate may be issued upon recommendation by the employing school district according to the following:

(i) The candidate shall have developed a professional growth plan in cooperation with the career and technical education administrator. The plan must be approved by a district career and technical education advisory committee.

(ii) The plan shall develop procedures and timelines for the candidate to meet the requirements for the initial certificate.

(c) The probationary certificate is valid for two years and is renewable one time for two additional years upon recommendation of the employing district if the individual has completed the procedures outlined for the first year in the professional growth plan and has made additional progress in meeting the requirements for the initial certificate.

(2) Initial certificate.

(a) The initial career guidance specialist certificate is valid for four years and may be renewed two times.

(b) Candidates must meet the eligibility requirements for the probationary certificate outlined in this section.

(c) Candidates for the initial certificate shall demonstrate competence through a course of study from a state approved program provider or state approved continuing education provider in the general standards for career guidance specialist which include, but are not limited to, knowledge and skills in the following areas as approved by the professional educator standards board:

(i) Individual and group career guidance skills;

(ii) Individual and group career development assessment;

(iii) Information and resources in providing career guidance;

(iv) Career guidance program planning, implementation, and management;

(v) Diverse populations;

(vi) Student leadership development;

(vii) Ethical/legal issues;

(viii) Technology;

(ix) History and philosophy of career and technical education.

(d) In order to teach worksite learning and career choices courses, candidates must successfully complete requirements per WAC 181-77A-180.

(3) Initial certificate renewal.

(a) Candidates for renewal of the initial career guidance specialist certificate must complete at least six quarter hours of college credit or sixty clock hours since the initial certificate was issued or renewed. Provided, at least two quarter credits or fifteen clock hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section.

(b) The initial renewal certificate is valid for three years and may be renewed one time.

(4) Continuing certificate.

(a) Candidates for the continuing career guidance specialist certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours of college credit or one hundred fifty clock hours completed subsequent to the issuance of the initial certificate.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years as a career guidance specialist with an authorized employer (i.e., school district(s) or skills center(s)).

(c) The continuing career guidance specialist certificate is valid for five years.

(5) Continuing certificate renewal. The continuing career guidance specialist certificate shall be renewed with the completion of fifteen quarter hours of college credit or the equivalent of one hundred fifty clock hours, prior to the lapse date of the first issuance of the continuing certificate and during each five-year period between subsequent lapse dates. Provided, at least four quarter credits or thirty clock hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section.

(6) Certificates issued under previous standards.

(a) Any person with a valid one-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board shall be eligible for the probationary certificate and must meet the requirements for earning the initial certificate.

(b) Any person with a valid three-year or five-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board may apply for the continuing (~~occupational information~~) career guidance specialist certificate by the expiration date of the original certificate held.

(c) Upon issuance of the probationary initial or continuing career guidance specialist certificate, individuals addressed in this subsection will be subject to certificate renewal requirements of this section.

WSR 16-23-084

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed November 16, 2016, 9:30 a.m., effective December 17, 2016]

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

Purpose: The department of licensing is repealing chapter 308-72 WAC, Motor vehicle fuel tax. This chapter is being repealed per SHB 1883. The bill simplifies and updates statutes related to fuel tax administration, signed into law in 2013 and effective July 1, 2016. The bill consolidated motor fuel (chapter 82.36 RCW) and special fuel (chapter 82.38 RCW) statutes. To reflect these changes, the department promulgated rule making to rewrite chapter 308-77 WAC and renamed it *Fuel tax rules and regulations*. These WAC changes were adopted by the department on June 9, 2016, with WSR 16-13-049 and 16-13-051. These revisions contain the elements needed to implement and manage both motor and special fuels. Since the motor fuel and special fuel taxation rules will be merged into a single WAC chapter to reflect SHB 1883, chapter 308-72 WAC is no longer needed; nor would it reflect current statutes.

Citation of Existing Rules Affected by this Order: Chapter 308-72 WAC.

Statutory Authority for Adoption: Chapters 82.36 and 82.38 RCW.

Adopted under notice filed as WSR 16-11-003 on May 4, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 22.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 22.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 22.

Date Adopted: November 16, 2016.

Damon Monroe
Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 308-72-50901	Waiving of bond requirement.
WAC 308-72-720	Dishonored checks.
WAC 308-72-800	Definitions.
WAC 308-72-805	Payment due dates for motor vehicle fuel taxes not paid by electronic funds.
WAC 308-72-810	Collateral requirements in lieu of surety bonds.
WAC 308-72-815	Cancellation, suspension, or revocation of motor vehicle fuel licenses.
WAC 308-72-820	Sales to qualified foreign diplomatic and consular missions.
WAC 308-72-835	Tax exempt losses.
WAC 308-72-840	Delinquent account notification process.
WAC 308-72-850	Records.
WAC 308-72-860	Investigatory power.
WAC 308-72-865	Invoices issued by licensees.
WAC 308-72-870	Minimum payment or refund.
WAC 308-72-880	Filing of refund claims for nonlicensees.
WAC 308-72-890	Invoice requirements for refunds to nonlicensees.
WAC 308-72-895	Refund records.
WAC 308-72-905	Power take-off (PTO) use.
WAC 308-72-910	On-board computers or recording devices.
WAC 308-72-915	Special rules and requirements for fuel tax refunds.
WAC 308-72-920	Use tax for refunds.
WAC 308-72-925	Mitigation of penalties and interest.
WAC 308-72-930	Appeals.

WSR 16-23-088
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed November 16, 2016, 11:40 a.m., effective December 17, 2016]

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

Purpose: 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.

Statutory Authority for Adoption: RCW 70.345.020 and 70.345.090.

Adopted under notice filed as WSR 16-19-101 on September 21, 2016.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 0.

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

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

Date Adopted: November 16, 2016.

Jane Rushford
Chair

Chapter 314-35 WAC

VAPOR PRODUCTS

NEW SECTION

WAC 314-35-010 Vapor products—Introduction.

This chapter provides rules that apply in addition to those requirements regarding the manufacturers, distributors, and retail sellers of vapor products provided in chapter 70.345 RCW. Penalties for violations of this chapter and for violations of chapter 70.345 RCW are provided in chapter 70.345 RCW.

NEW SECTION

WAC 314-35-020 Vapor product licenses required—Licensing requirements, denials, suspensions, and revocations. (1) The vapor product license types are: Vapor product retailer's license, vapor product distributor's license, and vapor product delivery sale license. A vapor product retailer's

license, vapor product distributor's license, or a vapor product delivery sale license is required to perform the functions of a vapor product retailer, vapor product distributor, or a vapor product delivery seller, respectively, whether or not the vapor product contains nicotine.

(2) A vapor product retailer's license, vapor product distributor's license, or a vapor product delivery sale license cannot be issued to a location that is a domicile.

(3) A person or entity must meet certain qualifications to receive a vapor product license, and must continue to meet those qualifications to maintain the license.

(4) No more than one license of each vapor product license type may be issued at a single location.

(5) A licensed location must be separated from other vapor product businesses and not accessible through neighboring businesses.

(6) For the purpose of reviewing an initial or renewal application for a vapor product license or considering the denial of a license application, the WSLCB may consider prior criminal conduct of the applicant and criminal history record within the five years prior to the date the application is received by the WSLCB. The WSLCB uses the following point system to determine a person's qualification for a license. The WSLCB will not normally issue a vapor product license to a person or entity that has accumulated eight or more points as determined in (a) through (e) of this subsection. If a case is pending for an alleged offense that would earn eight or more points in total for the applicant, the WSLCB will hold the application until the final disposition of the pending case. If the case does not reach final disposition within ninety days of application, the WSLCB may administratively close the application.

(a) Felony conviction within the five years immediately prior to application: Twelve points.

(b) Gross misdemeanor conviction for violation of chapter 82.24 or 82.26 RCW within the five years immediately prior to application: Twelve points.

(c) Other gross misdemeanor conviction within three years immediately prior to application: Five points.

(d) Misdemeanor conviction within three years immediately prior to application: Four points.

(e) Nondisclosure of any of the above: Four points each in addition to underlying points.

(7) For the purpose of reviewing an initial or renewal application for a vapor product license and considering the denial of a vapor product license application, the WSLCB will conduct an investigation of all applicants' liquor and cigarette and tobacco products law and rule administrative violation history. The WSLCB will not normally issue a vapor product license to a person or entity that has four or more violations within the two years prior to the date the application is received by the WSLCB.

(8) If the WSLCB makes an initial decision to deny a vapor product license or renewal, or suspend or revoke a license, for the reasons listed above or as provided in chapter 70.345 RCW, the applicant or licensee may request a hearing subject to the applicable provisions under chapter 34.05 RCW. Appeals under this section will be conducted under a brief adjudicative proceeding pursuant to WAC 314-42-110 through 314-42-130, and RCW 34.05.482 through 34.05.494.

NEW SECTION

WAC 314-35-030 Vapor product licensee record-keeping requirements. (1) Vapor product distributors and manufacturers must keep complete and accurate records, including itemized invoices, at each place of business for that place of business of vapor products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of vapor products made. These records must show the names and addresses of purchasers, the inventory of all vapor products, and other pertinent papers and documents relating to the purchase, sale, or disposition of vapor products. All invoices and other records required by this section to be kept must be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(2) Vapor product licensees must render with each sale of vapor products to persons other than ultimate consumers itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices. Vapor product licensees must preserve legible copies of all such invoices for five years from the date of sale.

(3) Every licensed vapor product retailer must procure itemized invoices of all vapor products purchased. The invoices must show the seller's name and address, the date of purchase, and all prices and discounts.

(4) The licensed vapor product retailer must keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section must be preserved for five years from the date of purchase.

NEW SECTION

WAC 314-35-040 Age-restricted vapor products retailer licensed locations. (1) Age-restricted vapor products retailer licensed locations must register as such with the WSLCB by indicating at the time of application or within ten days prior to becoming an age-restricted location. A vapor product retail licensee must inform the WSLCB in writing ten business days prior to a change in the age-restriction status. The appropriate form is available on the WSLCB web site.

(2) Holders of a vapor product retailer license where entry into the licensed premises is age-restricted to persons eighteen years of age or older must post signs provided by the WSLCB at each entrance point to indicate the premises is age-restricted. Such signs must not be removed at any time during opening hours of the licensed vapor products retail establishment.

WSR 16-23-089
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed November 16, 2016, 11:40 a.m., effective February 14, 2017]

Effective Date of Rule: February 14, 2017 (ninety days after filing).

Purpose: The purpose of this proposal is to establish a new warning symbol to be placed on marijuana products intended to be eaten or swallowed. This proposal creates a new WAC section in chapter 314-55 WAC to establish the new warning symbol requirement for placement of the "not for kids" symbol on the principal display panel or front of the product package. The new rule establishes minimum size requirements and options for marijuana licensees who wish to print their own stickers using the free digital image or use a sticker bearing the symbol in lieu of the digital image developed and made available in digital form to licensees without cost by the Washington Poison Center. This labeling requirement is in addition to other labeling requirements established in WAC 314-55-105.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345.

Adopted under notice filed as WSR 16-17-043 on August 10, 2016.

Changes Other than Editing from Proposed to Adopted Version: Minor changes to language in the rule as filed with the CR-102 to further clarify that licensees may print a sticker with the warning symbol on it themselves or purchase a sticker with the warning symbol from the Washington Poison Center for placement on packages of edible marijuana products in lieu of incorporating the warning symbol on the labels or packaging of products. This change ensures proper effect of the intent of the rule. Language was also adjusted to require those that place the symbol on white packaging or labels to line the edges of the white background with a black border to ensure visibility of the symbol.

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

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

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

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

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

Date Adopted: November 16, 2016.

Jane Rushford
Chair

NEW SECTION

WAC 314-55-106 Marijuana warning symbol requirement. The following requirements are in addition to the packaging and labeling requirements provided in WAC 314-55-105.

(1) Marijuana-infused products meant to be eaten or swallowed sold at retail must be labeled on the principal display panel or front of the product package with the "not for kids" warning symbol created and made available in digital form to licensees without cost by the Washington poison center (WPC). The warning symbol may be found on the WPC's web site.

(a) The warning symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers and children that the product is not for kids, but must not be smaller than three-quarters of an inch in height by one-half of an inch in width; and

(b) The warning symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package, except that a licensee must use a black border around the edges of the white background of the warning symbol image when the label or packaging is also white to ensure visibility of the warning symbol.

(2) Licensees may download the digital warning symbol from the WPC and print stickers, or purchase and use a sticker made available by the WPC, in lieu of incorporating the warning symbol on its label or packaging as required under subsection (1) of this section. If a licensee elects to use a warning symbol sticker, the sticker:

(a) Must meet all requirements of subsection (1) of this section; and

(b) Must not cover or obscure in any way labeling or information required on marijuana products by WAC 314-55-105.

(3) For the purposes of this section, "principal display panel" means the portion(s) of the surface of the immediate container, or of any outer container or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale. "Immediate container" means the external container holding the marijuana product.

WSR 16-23-094

PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 16, 2016, 1:32 p.m., effective December 17, 2016]

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

Purpose: The department is creating WAC 388-97-1090 Direct care hours and amending WAC 388-97-0001 Definitions and 388-97-1080 Nursing services, to comply with, and be consistent with, Washington state statute and to implement the requirements of SSB 5600 (definitions concerning the abuse of vulnerable adults), SHB 1274 (implementing a

value-based system for nursing home rates), and SHB 2678 (regulating nursing home facilities).

Citation of Existing Rules Affected by this Order: Amending WAC 388-97-0001 and 388-97-1080.

Statutory Authority for Adoption: Chapters 18.51, 74.42 RCW.

Other Authority: Chapters 74.34, 74.42, 74.46 RCW, SHB 1274, SB [SSB] 5600, SHB 2678.

Adopted under notice filed as WSR 16-18-094 on September 7, 2016.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-97-1090(6), replaced the term "monitor facility" with "periodically review the nursing home's."

WAC 388-97-1090(17), clarified language by adding "provide a written" before the term "survey" and changing the term "facilities" to "nursing homes."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 2, Repealed 0.

Date Adopted: November 16, 2016.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 16-24 issue of the Register.

WSR 16-23-102
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 17, 2016, 12:52 p.m., effective December 18, 2016]

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

Purpose: These rule revisions provide updates regarding which new schools operating during their first year may qualify as challenging, high poverty schools for purposes of the national board bonus.

Citation of Existing Rules Affected by this Order: Amending WAC 392-140-973.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

Adopted under notice filed as WSR 16-19-080 on September 20, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 2, 2016.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-140-973 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Eligibility. Staff that are eligible for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards during the entire school year, unless otherwise specified in the state Biennial Operating Appropriations Act; and

(2) Who are:

(a) Teachers and other certificated instructional staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210; ((~~or~~))

(b) Teachers and other certificated instructional staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2)(a); ((~~or~~))

(c) Teachers and other certificated instructional staff employed full time or part time by the Washington school for the deaf or Washington school for the blind; or

(d) Teachers and other certificated instructional staff employed full time or part time by a charter school.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated instructional staff shall be eligible for additional bonuses if in an instructional assignment in challenging, high poverty schools, subject to the following conditions and limitations:

(a) Challenging, high poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(i) 70 percent for elementary schools;

(ii) 60 percent for middle schools; or

(iii) 50 percent for high schools; as determined by the October 1st count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on May 1st of that prior year: Provided, That

schools operating during the current school year as their first year may qualify as challenging, high poverty schools based upon current year data, as determined by the October 1st count on May 1st of the current year.

(b) For purposes of the national board challenging, high poverty schools bonus, a school shall be categorized based upon the highest grade served as follows:

(i) A school whose highest grade served is 6th grade or lower shall be considered an elementary school;

(ii) A school whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school;

(iii) A school whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school.

(c) A school shall be considered only if it serves thirty or more students, or is the largest school in the district serving its designated category.

(d) Schools that provide institutional education programs pursuant to WAC 392-122-205 shall be designated as challenging, high poverty schools with the student headcount enrollment eligible for the federal free or reduced price lunch program at one hundred percent and shall not be subject to the requirement in this subsection of serving thirty or more students.

(e) The student enrollment data used shall include the state-funded students in kindergarten through twelfth grade, plus prekindergarten students in special education.

(f) Teachers and other certificated instructional staff that meet the qualifications for the challenging, high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the challenging, high poverty schools bonus in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to challenging, high poverty schools shall be determined as of June 15th of the school year.

(ii) If the employee's assignment to challenging, high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

WSR 16-23-107

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed November 18, 2016, 8:21 a.m., effective December 19, 2016]

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

Purpose: The department is amending chapter 16-29 WAC to:

- Clarify the data that slaughter facilities must report to the department;
- Add an alternative to reporting when certain conditions are met; and
- Clarify penalties associated with reporting violations.

Citation of Existing Rules Affected by this Order: Amending WAC 16-29-015 and 16-29-025.

Statutory Authority for Adoption: RCW 16.36.150.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-19-097 on September 21, 2016.

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

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

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

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

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

Date Adopted: November 18, 2016.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 15-02-024, filed 12/30/14, effective 7/1/15)

WAC 16-29-015 Levy and collection of assessment.

(1) An assessment of \$0.23 per head is levied on all cattle sold or slaughtered in the state or transported out of the state except for:

(a) An assessment of \$0.05 per head is levied on all immediate slaughter cattle.

(b) No assessment is paid on cattle slaughtered and retained by the owner for personal consumption.

(2) Collection of assessments will be collected in the same manner as the livestock inspection fees under RCW 16.57.223 and 16.65.090 except for subsection (1)(a) of this section. For immediate slaughter cattle or cattle originating from a certified feedlot, the assessments will be collected by the slaughter facility and remitted to the department by the fifteenth day of the month following the month the transaction occurred.

~~((In addition to the assessment collected by the slaughter facility, the slaughter facility shall furnish the department a list of all cattle slaughtered during any given month.))~~

(3) Assessments owed from private individual sales, trades, gifting, barter, or any other action that constitutes a change of ownership of livestock per WAC 16-610-020(3), not occurring at a public livestock market or special sale licensed under chapters 16.65 RCW and 16-610 WAC or a slaughter facility, will be collected:

(a) When a change of ownership livestock inspection is conducted or when the transaction is reported through an electronic livestock movement reporting system per chapter 16-610 WAC.

(b) When utilizing the "green tag" as provided in RCW 16.57.160(3). The assessment will be added to the purchase price of each tag.

(4) Assessments are collected at a federally inspected slaughter facility when:

(a) Cattle are sold and slaughtered concurrently. This is considered a one assessment event and one fee shall be collected per head from the seller.

(b) Cattle originate from a certified feedlot licensed under chapter 16.58 RCW. The assessments will be collected by the slaughter facility and remitted to the department by the fifteenth day of the month following the month the transaction occurred.

(c) Cattle are slaughtered and no change of ownership has occurred, the per head fee shall be collected from the owner of the animal.

(5) Collection of assessments for custom slaughtering occurs when utilizing custom slaughter beef tags per WAC 16-610-100. The assessment will be added to the purchase price of each tag.

(6) Collection of assessments at public livestock markets and special sales licensed under chapter 16.65 RCW will be considered one assessment event, charged to the seller, when:

(a) Cattle are purchased and destined to an out-of-state location by the buyer.

(b) Cattle are purchased and destined for slaughter to an in-state federally inspected slaughter facility.

(7) When Washington origin cattle are transported for sale to an out-of-state market where the director conducts inspections of Washington origin cattle by agreement with the host state, it shall be considered one assessment event and one fee shall be collected per head from the Washington seller.

(8) Collection of assessments for out-of-state movement occurs when:

(a) Cattle are purchased and destined to an out-of-state location by the buyer. This is considered a one assessment event and one fee shall be collected per head from the seller.

(b) Cattle are moving out-of-state with no change of ownership.

NEW SECTION

WAC 16-29-017 Reporting requirements. (1) Slaughter facilities shall furnish the department a report of all cattle slaughtered by individual consignment. The report is due by the fifteenth day of the month following the month the transaction occurred. The report must include:

- (a) Slaughter date;
- (b) Number of head slaughtered;
- (c) Type: Beef, dairy, or condemned;
- (d) Sex;
- (e) Name of owner/seller;
- (f) State of origin; and
- (g) Any other information the director deems necessary.

(2) As an alternative to the report described in subsection (1) of this section, the department will accept a completed affidavit (AGR Form 402-3093) only when the following conditions are met:

(a) All USDA inspected cattle slaughtered during the month were inspected by either a department livestock inspector or a department certified accredited veterinarian approved to conduct livestock inspections;

(b) No out-of-state cattle were slaughtered during the month; and

(c) No cattle originating from a department certified feedlot were slaughtered during the month.

(3) The report or affidavit may be submitted to the department by e-mail to adtwa@agr.wa.gov, by fax to 360-902-2087, or by mail to Washington State Department of Agriculture, Animal Disease Traceability Program, P.O. Box 42577, Olympia, Washington 98504-2577.

AMENDATORY SECTION (Amending WSR 15-02-024, filed 12/30/14, effective 7/1/15)

WAC 16-29-025 Penalty outline and schedule. (1) If any person fails to comply with the requirements of RCW 16.36.150 (~~and this chapter~~), the director may issue that person a notice of infraction and may assess a penalty.

(2) Each violation is a separate and distinct offense. Penalties may be assessed per violation or per head.

(3) The following is the base penalty, not including statutory assessments.

Violation	Base Penalty
RCW 16.36.150	Failing to pay the traceability fee
First offense	\$50.00
Second offense within three years	\$125.00
Third and subsequent offenses within three years	\$250.00

(4) If any person fails to comply with the reporting requirements described in WAC 16-29-017, the penalties will be assessed according to chapter 16-90 WAC.

WSR 16-23-108

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed November 18, 2016, 8:22 a.m., effective December 19, 2016]

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

Purpose: The department is amending chapter 16-54 WAC to:

- Modify the feral swine definition;
- Add timed events to definitions to be consistent with chapter 16-86 WAC;
- Remove the requirement that owners of swine must sign the certificate of veterinary inspection for porcine epidemic diarrhea virus origination or effected premises;
- Modify the exemption to import test requirements for dogs, cats and ferrets to allow traveling into Washington by means other than private conveyance;
- Reference the statutory authority for wild and exotic animals;
- Update prohibited entries to include current regulation from the Washington department of health; and

- Modify language to increase clarity and conform with current industry practices.

Citation of Existing Rules Affected by this Order: Amending WAC 16-54-010, 16-54-030, 16-54-032, 16-54-065, 16-54-071, 16-54-086, 16-54-111, 16-54-170, and 16-54-180.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-19-096 on September 21, 2016.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 9, Repealed 0.

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

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

Date Adopted: November 18, 2016.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 16-01-133, filed 12/18/15, effective 1/18/16)

WAC 16-54-010 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Accredited free state" means a state that has been determined by United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) to have a zero prevalence of cattle and bison herds affected with bovine tuberculosis as listed in Title 9 C.F.R. Part 77.7 (January 1, 2014).

"Approved veterinary laboratory" means a laboratory that has been approved by National Veterinary Services Laboratories or other USDA, APHIS-approved facility.

"Certificate of veterinary inspection" means a legible veterinary health inspection certificate on an official form (electronic or paper) from the state of origin or from USDA, APHIS executed by a licensed and accredited veterinarian or a veterinarian approved by USDA, APHIS. The certificate of veterinary inspection is also known as an "official health certificate."

"Class free and Class A, B, and C states" means states that are classified for brucellosis by USDA, APHIS in Title 9 C.F.R. Part 78.41 (January 1, 2014).

"Consigned" means to deliver for custody or sale.

"Dairy cattle" means all cattle, regardless of age or sex or current use, that are of a breed used to produce milk or other dairy products for human consumption including, but not

limited to, Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, and Milking Shorthorn.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of WSDA or the director's authorized representative.

"Domestic bovine" means domesticated cattle, including bison.

"Domestic equine" means horses, donkeys, mules, ponies, and other animals in the *Equidae* family.

"Entry permit" means prior written permission issued by the director to admit or import animals or animal reproductive products into Washington state.

"Exotic animal" means species of animals that are not native to Washington state but exist elsewhere in the world in the wild state.

"Feral swine" means animals included in any of the following categories:

- Animals of the genus *Sus* that are free roaming on public or private lands and do not appear to be domesticated;
- Swine (~~(from domesticated stocks)~~) that have (~~(escaped or~~ been released or born into the wild state;
- European wild hogs and their hybrid forms (also known as European wild boars or razorbacks), regardless of whether they are free roaming or kept in confinement; or
- Animals of the family *Tayassuidae* such as peccaries and javelinas, regardless of whether they are free roaming or kept in confinement.

"Immediate slaughter" means livestock will be delivered to a federally inspected slaughter facility within twelve hours of entry into Washington state.

"Mature vaccinate" means a female bovine over the age of twelve months that has been vaccinated, under directions issued by the state of origin, with a mature dose of brucellosis vaccine.

"Modified accredited state" means a state that has been determined by USDA, APHIS to have a prevalence of bovine tuberculosis of less than 0.1 percent of the total number of herds of cattle and bison as listed in Title 9 C.F.R. Part 77.11 (January 1, 2014).

"Movement permit" means an entry permit that is valid for six months and permits the entry of domestic equine into Washington state.

"NPIP" means the National Poultry Improvement Plan.

"Official brucellosis test" means the official test defined by Title 9 C.F.R. Part 78.1 (January 1, 2014).

"Official brucellosis vaccinate" means an official adult vaccinate or official calthood vaccinate as defined by Title 9 C.F.R. Part 78.1 (January 1, 2014).

"Official individual identification" means identifying an animal using USDA-approved devices or methods, or an alternative form of identification agreed upon by the sending and receiving states, such as unique breed registry tattoos when accompanied by registration documentation. A group of animals may be identified by registered brands when accompanied by a certificate of inspection from a brand inspection authority recognized by the director when agreed upon by the sending and receiving states.

"Poultry" means chickens, turkeys, ratites, waterfowl, game birds, pigeons, doves, and other domestic fowl.

"Psittacine" means birds belonging to the family *Psittacidae* including, but not limited to, parrots, macaws, and parakeets.

"Restricted feedlot" means a feedlot holding a permit issued under chapter 16-30 WAC.

"Restricted holding facility" means an isolated area approved and licensed by the director, as advised by the state veterinarian.

"Stage I, II, III, IV, or V pseudorabies state" means states as classified by the Pseudorabies Eradication State-Federal-Industry Program Standards (November 1, 2003).

"Timed events" means competitive events that take place where time elapsed is the factor that determines the placing of individuals competing in the event.

"USDA, APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

"Virgin bull" means a sexually intact male bovine less than eighteen months of age, as determined by dentition inspection by an accredited veterinarian or verified by breed registration documents, that is confirmed by a statement and the signature of the owner or the owner's designee as having had no breeding contact with female cattle.

"Wild animals" is defined in RCW 77.08.010((6+)).

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-030 Certificate of veterinary inspection, and entry permit requirements. (1) All animals entering Washington state must comply with the requirements of USDA, APHIS regulations found at Title 9 C.F.R. (January 1, 2014) for movement or importation from foreign countries.

(2) Certificate of veterinary inspection:

(a) A certificate of veterinary inspection must accompany all animals entering Washington state, except where specifically exempted in (~~Title 9 C.F.R. Part 86 (January 1, 2014) and~~) this chapter. Certificates of veterinary inspection expire thirty days from the date of issuance.

(b) The certificate of veterinary inspection must show that all livestock listed have been examined and found in compliance with vaccination, testing and identification requirements under Title 9 C.F.R. Part 86 (January 1, 2014).

(c) Livestock entering Washington state for veterinary care or as part of a veterinary research project where there will be constant veterinary care or supervision for the duration of the time spent in Washington state are exempt from import test requirements and certificate of veterinary inspection requirements. An entry permit is required.

(d) Any exemption to the requirement for a certificate of veterinary inspection may be suspended during an emergency disease condition declared by the director.

(e) Unless an emergency rule is in effect, a certificate of veterinary inspection is not required for domestic bovine that are:

(i) Consigned to federally inspected slaughter facilities for immediate slaughter; or

(ii) Consigned to state-federal approved livestock markets for sale for immediate slaughter only; or

(iii) Consigned to no more than one approved livestock market where import requirements can be met; or

(iv) Consigned to a category 2 restricted holding facility, unless originating from a state or country with less than free status; or

(v) Cattle moving interstate from contiguous states on grazing permits, as long as testing and vaccination requirements are met, as required by each state veterinarian.

(3) **Entry permit:** An entry permit is required on:

(a) All domestic bovine (including Mexican cattle, Canadian cattle, and bison);

(b) Swine;

(c) Rams;

(d) Equine identified on a certificate similar to the Washington Equine Certificate of Veterinary Inspection and Movement Permit (form AGR-3027);

(e) Equine from states or countries where the diseases listed in WAC 16-54-071 have been diagnosed;

(f) Intact male equine that test positive to equine viral arteritis; (~~and~~)

(g) Equine reproductive products from donors that test positive to equine viral arteritis; and

(h) Wild and exotic animals.

(4) Entry permits are granted at the discretion of the director and may be obtained from:

Washington State Department of Agriculture

Animal Services Division

1111 Washington Street S.E.

P.O. Box 42577

Olympia, Washington 98504-2577

E-mail: ahealth@agr.wa.gov

Phone: 360-902-1878.

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-032 Certificate of veterinary inspection—Required information. (1) A certificate of veterinary inspection must meet the requirements in Title 9 C.F.R. Part 86 (January 1, 2014) and contain the following information:

(a) An entry permit number, when required;

(b) Date of inspection;

(c) Names and physical addresses of the consignor and consignee;

(d) Shipment information, including:

(i) Physical addresses of origin and destination of shipment;

(ii) Anticipated shipment date;

(iii) Number of animals in the shipment; and

(iv) Purpose for which the animals are to be moved.

(e) Certification that the animals are free from clinical signs or known exposure to any infectious or communicable disease;

(f) Test or vaccination status, when required;

(g) Description of each animal by:

(i) Identifying species;

(ii) Breed;

(iii) Age;

(iv) Sex of the animal;

(v) Color; and

(vi) Official individual identification.

(2)(~~(a)~~) Copies of all certificates of veterinary inspection must be (~~reviewed by the animal health official of the state of origin and a copy must be immediately~~) forwarded within seven calendar days from date of issuance to:

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
Olympia, Washington 98504-2577(~~;~~)
~~(b) By~~) E-mail (~~(t)~~): ahhealth@agr.wa.gov
Fax: 360-902-2087.

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-065 Prohibited entries. (1) Any animal that is infected with or exposed to any infectious or communicable disease is prohibited from entering Washington state.

(2) Livestock susceptible to vesicular stomatitis that have been in contact with any premises within the past thirty days under quarantine or investigation for vesicular stomatitis are prohibited from entering Washington state.

(3) The following animals are prohibited from entering Washington state for any purpose:

- (a) Cattle originating from Mexican dairies;
- (b) Feral swine;
- (c) Domestic swine from herds where brucellosis is known to exist;
- (d) Deleterious exotic wildlife, as defined by RCW 77.08.010 and designated at WAC 232-12-017, except as provided in WAC 232-12-017.

(4) The Washington state department of health under WAC 246-100-197 (~~(animals, birds, pets, measures to prevent human disease,)~~) prohibits certain animals including bats, skunks, foxes, raccoons, and coyotes from being imported into Washington state except for exhibition by bona fide public or private zoological parks or research facilities.

(5) Entry permits allowing bona fide public or private zoological parks or research facilities to import bats, skunks, foxes, raccoons, and coyotes may be issued by the director in consultation with the secretary of the Washington state department of health.

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-071 Domestic equine and equine reproductive products—Importation requirements. Import health requirements.

(1)(a) In addition to the other requirements of this chapter, all domestic equine and equine reproductive products entering Washington state must be accompanied by a certificate of veterinary inspection.

(b) Equine vaccinated against equine viral arteritis (EVA) must be accompanied by a vaccination certificate.

(c) Reproductive products from donors that test positive for EVA must be accompanied by an application and entry permit.

(d) Domestic equine from the western states of Oregon, Idaho, California, Nevada, Utah, Arizona, Montana, Wyo-

ming, Colorado, and New Mexico may enter Washington state for shows, rides, or other events either with a certificate of veterinary inspection or with a document similar to the Equine Certificate of Veterinary Inspection and Movement Permit. Individual trips cannot exceed ninety days.

(e) An itinerary of interstate travel must be filed with the department within fourteen days of the expiration of the movement permit.

(2) All certificates and forms may be obtained from and sent to:

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
Olympia, Washington 98504-2577
E-mail: ahhealth@agr.wa.gov
Fax: 360-902-2087.

Import test requirements.

Equine infectious anemia (EIA).

(3) All domestic equine, except foals under six months of age accompanying their negative tested dams, must have a negative test for equine infectious anemia (EIA) within twelve months before entering Washington state.

Exemptions to EIA test requirements.

(4) Domestic equine moving to Washington from Idaho or Oregon are excluded from EIA test requirements.

Equine viral arteritis (EVA).

(5) Intact males over six months of age and equine reproductive products from donors that test positive for EVA may enter Washington state only if accompanied by an entry permit and a statement on the certificate of veterinary inspection verifying that the consignee:

- (a) Has been advised of the positive antibody test results and the associated risks of EVA infection;
 - (b) Agrees to follow the recommendations of the Office International des Epizooties of the World Organization of Animal Health regarding EVA and USDA recommendations found in the *Equine Viral Arteritis Uniform Methods and Rules*, effective April 19, 2004; and
 - (c) Consents to the shipment.
- (6) Intact males that test antibody positive for EVA are required to have an entry permit and may be subject to quarantine or a hold order.

(7) Equine semen and embryos require an entry permit and must originate from donors that have proof of vaccination or a negative antibody test for EVA during the current breeding season.

(8) Equine semen and embryos from antibody positive donors must be used or implanted only in vaccinated or seropositive mares. These mares must be isolated for twenty-one days following insemination or implantation.

(9) Additional testing for EVA may be required during emergency disease conditions declared by the director.

Piroplasmosis.

(10) Any equine that has ever tested positive for piroplasmosis may not enter Washington state.

(11) Any equine that has originated from a country or state where piroplasmosis is endemic must be negative to a C-ELISA test within thirty days before entry into Washing-

ton state, and are subject to a quarantine order upon arrival and retested within sixty to ninety days. Horses that test positive on the post-arrival C-ELISA test are not permitted to remain in the state and must be removed.

AMENDATORY SECTION (Amending WSR 16-01-133, filed 12/18/15, effective 1/18/16)

WAC 16-54-086 Bovine trichomoniasis requirements. (1) **Bulls** (except bison) may be imported into the state of Washington if they meet the following requirements:

(a) The bulls originate from a herd wherein all bulls have tested negative for bovine trichomoniasis since they were removed from female cattle; or

(b) The bulls have tested negative to a bovine trichomoniasis quantitative polymerase chain reaction (qPCR) test within sixty days before import and have had no contact with female cattle from the time of the test to the time of import; or

(c) Rodeo bulls for timed events and bucking bulls have tested negative for bovine trichomoniasis within the past twelve months and have a statement on the certificate of veterinary inspection certifying that the bulls have had no female breeding contact; or

(d) If the bulls originate from a herd where one or more bulls or cows have been found infected with bovine trichomoniasis **within the past twelve months**, the bulls must have two negative qPCR tests one week apart. The samples for each test must be collected within thirty days before cattle are imported into Washington state, and an import permit must be obtained from the director and include a certifying statement that the bulls originated from an infected herd.

(2) Laboratory pooled qPCR samples collected from up to five bulls will be accepted if the following conditions are met:

(a) Bulls are eighteen months of age and older that cannot be exempted as virgin bulls under WAC 16-54-010, and which have had no breeding contact with female cattle; and

(b) Bulls originate from a herd where there is no history of trichomoniasis infection, and are part of a single herd, not assembled cattle; and

(c) Bulls are sampled for a diagnostic test without regulatory implications or are not part of a trichomoniasis investigation.

(3) Before arrival at their destination in Washington state, all imported bulls must be identified with official identification or an official trichomoniasis bangle tag.

(4) Bulls that enter Washington state without meeting the bovine trichomoniasis requirements of this section will be subject to a quarantine order or a hold order at the owner's expense until they have had two negative qPCR tests one week apart.

(5)(a) Any bull or cow that is positive to a trichomoniasis test, and any herd in which one or more bulls or cows are found infected with trichomoniasis is considered infected.

(b) In the case of bulls testing positive to trichomoniasis, the herd shall be subject to a quarantine order or a hold order pending an epidemiological investigation to determine the source of the infection, and as long as infection persists in the herd.

(c) Infected bulls will be subject to a quarantine order or a hold order and will not be used for breeding. They must be slaughtered, sold for slaughter, or sent to a restricted feedlot or category 2 restricted holding facility to remain in slaughter channels.

(6) **Certification and proficiency testing and types of tests.** The state veterinarian will determine trichomoniasis training for veterinarians and laboratories, and the types of tests used to determine trichomoniasis infection. All sampling will be obtained by pipette scrapings from the prepuce and glans of a bull.

(a) All trichomoniasis testing of bulls in Washington state shall be performed by a veterinarian accredited by the USDA APHIS. In addition, all accredited veterinarians testing bulls in Washington state for trichomoniasis are required to successfully complete training and pass a trichomoniasis testing procedure proficiency examination provided by the department. Effective January 1, 2011, accredited veterinarians may not perform official trichomoniasis testing of bulls in Washington state until they have successfully completed the training and passed the proficiency examination.

A schedule of training opportunities is available by contacting the department at:

Washington State Department of Agriculture

Animal Services Division

1111 Washington Street S.E.

P.O. Box 42577

Olympia, Washington 98504-2577

E-mail: ahealth@agr.wa.gov

Phone: 360-902-1878.

(b) Registered veterinarians shall only utilize official laboratories recognized by the state veterinarian for testing of trichomoniasis samples.

(c) Registered veterinarians collecting samples in the state of Washington shall submit results of all trichomoniasis tests and all official identification on official trichomoniasis test and report forms to the animal services division within five business days of receiving test results from an approved laboratory.

(d)(i) Polymerase chain reaction is accepted as an official test when completed by an approved laboratory and when the sample is received by the laboratory within forty-eight hours of collection.

(ii) Other tests for trichomoniasis may be approved as official tests by the state veterinarian after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established.

(iii) An official test is one in which the sample is received in the approved laboratory in good condition within forty-eight hours of collection. Samples in transit for more than forty-eight hours will not be accepted for official testing and must be discarded. Samples that have been frozen or exposed to high temperatures must also be discarded.

Exemptions to bovine trichomoniasis test requirements.

(7) **Virgin bulls**, as defined in WAC 16-54-010 are exempt from bovine trichomoniasis test requirements.

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-111 Swine—Importation and testing requirements. Import health requirements.

(1) All swine entering Washington state must be accompanied by an entry permit, a certificate of veterinary inspection, and official individual identification.

(2) The certificate of veterinary inspection must contain the following certification: "To the best of my knowledge, swine represented on this certificate have not originated from a premises known to be affected by Porcine Epidemic Diarrhea virus (PEDv), and have not been exposed to PEDv within the last 30 days." ~~((The certification must be signed by both the owner of the swine and the certifying veterinarian.))~~

(3) Feral swine are prohibited in Washington state.

Import test requirements.

(4) **Brucellosis.** All intact male and intact female swine more than six months of age must be tested negative for brucellosis within thirty days before entering Washington state or must originate from a USDA validated brucellosis free herd or state (Swine Brucellosis Control/Eradication State-Federal-Industry Uniform Methods and Rules, April 1998).

(5) **Pseudorabies.** No test is required from states recognized as Stage IV or Stage V by Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003.

(6) A negative pseudorabies test within thirty days before entry is required for swine from any state or area that loses Stage IV or Stage V status.

Exemptions to import test requirements.

(7) Swine shipped directly to a federally inspected slaughter facility for immediate slaughter are exempt from testing requirements.

Swine semen and embryos.

(8)(a) Swine semen and swine embryos entering Washington state for insemination of swine or implantation into swine shall be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian stating that the donor swine are not known to be infected with or exposed to pseudorabies, were negative to an official pseudorabies serologic test within thirty days prior to the collection of the semen or embryos or were members of a qualified pseudorabies negative herd, and had not been exposed to pseudorabies within thirty days prior to the collection of the semen or embryos.

(b) Brucellosis testing is not required on donor swine from brucellosis validated free states.

(c) Pseudorabies testing is not required on donor swine from pseudorabies Stage IV or Stage V states.

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-170 Dogs, cats, and ferrets—Importation and testing requirements. (1) Dogs, cats, or ferrets entering Washington state require a certificate of veterinary inspection.

(2) The certificate of veterinary inspection for dogs, cats, or ferrets must identify each animal and certify that each animal at the time of entry is current on rabies vaccination

according to the manufacturer's label, and does not originate from an area under quarantine for rabies.

(3) Dogs six months of age or older must be tested negative for heartworm or are currently on a heartworm preventative.

Exemptions to import health requirements.

(4) Dogs, cats, or ferrets less than ninety days of age do not require a rabies vaccination.

~~(5) ((Dogs and cats that originate in Washington state and visit Canada for thirty days or less are exempt from a certificate of veterinary inspection.~~

~~(6))~~ Dogs, cats, or ferrets that are family pets and have current rabies vaccination certificates and are traveling ~~((by private conveyance))~~ with their owners with no sale, trade, or other change of ownership intended are exempt from a certificate of veterinary inspection.

Exemptions to import test requirements.

~~((7))~~ ~~(6)~~ Dogs that have been owned by the same owner for more than one month prior to entering the state, and are not going to be sold or have a change of ownership, and are traveling ~~((by private conveyance))~~ with their owner are exempt from the heartworm test requirement.

AMENDATORY SECTION (Amending WSR 15-02-025, filed 12/30/14, effective 1/30/15)

WAC 16-54-180 Wild and exotic animals—Importation and testing requirements. Import health requirements.

(1) Wild and exotic animals entering Washington state must be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian licensed in the state of origin, or accompanied by an international certificate of health unless the animals are prohibited under chapter 16.30 RCW or 232-12 WAC.

(2) All wild and exotic animals must be accompanied by an entry permit.

Import test requirements.

(3) **Brucellosis:** Within thirty days before entering Washington state, negative serologic testing must be conducted on the following categories of captive wild or exotic animals that are more than six months of age:

Table 1.

Wild and exotic animals that must be tested for brucellosis

Tested For	Species Scientific Name	Common Name Examples
<i>Brucella abortus</i>	<i>Camelidae</i>	<ul style="list-style-type: none"> • Vicuna • Guanaco • <u>Camel</u>
	<i>Cervidae</i>	<ul style="list-style-type: none"> • Elk • Caribou • Moose • Reindeer • Deer

Tested For	Species Scientific Name	Common Name Examples
	<i>Giraffidae</i>	<ul style="list-style-type: none"> • Giraffe • Okapi
	<i>Bovidae</i>	<ul style="list-style-type: none"> • Wild cattle (gaur, banteng, kaupre, yak) • Bison (American bison, European bison) • Buffalo (Asian water buffalo, tamaraw, lowland anoa, mountain anoa, African buffalo)
	<i>Ovidae, Capridae</i>	<ul style="list-style-type: none"> • Wild sheep (bighorn sheep, Dall's sheep, mouflon, argoli, uriol, blue sheep, barbary sheep, red sheep) • Wild goats (Rocky Mountain goat, ibex, walia ibex, west Caucasian tur, east Caucasian tur, Spanish ibex, markhor)
<i>Brucella suis</i>	<i>Suidae</i>	<ul style="list-style-type: none"> • Wild swine (European wild boar, bearded pig, Jovan pig, pygmy hog, wart hog, giant forest pig, East Indian swine or Babirusa, African bush pig, peccaries)
<i>Brucella suis biovar 4</i>	<i>Cervidae</i>	<ul style="list-style-type: none"> • Caribou • Reindeer
<i>Brucella ovis</i>	<i>Ovidae, Capridae</i>	<ul style="list-style-type: none"> • All wild sheep and goats must be tested and found negative to <i>Brucella ovis</i> within thirty days before entering Washington state

(4) **Tuberculosis** (*Mycobacterium bovis* and *Mycobacterium tuberculosis*):

(a) Animals less than six months of age that are nursing negative tested dams may be excluded from tuberculosis test requirements.

(b) Within thirty days before entering Washington state, the animals listed in the following table must test negative for *M. bovis* and *M. tuberculosis* by a skin test or other approved test that follows federal tuberculosis protocols:

Table 2.

Wild and exotic animals that must be tested for tuberculosis

Species Scientific Name	Common Name Examples
<i>Ceropithecidae</i>	• Old world primates
(<i>Elephantidae</i>)	• Elephants¹)
<i>Hylobotidae</i>	• Gibbons
	• Lessor apes
<i>Pongidae</i>	• Great apes
<i>Elephantidae</i>	• Elephants ¹
<i>Bovidae</i>	• Wild cattle
<i>Ovidae, Capridae</i>	• Wild sheep
	• Wild goats
<i>Cervidae, Giraffidae</i>	• Elk
	• Caribou
	• Moose
	• Reindeer
	• Deer
	• Giraffe
	• Okapi

¹Negative trunk wash or other USDA-validated tuberculosis test every twelve months.

(c) *Cervidae*, such as elk, deer, caribou, moose, and reindeer and *Giraffidae*, such as giraffe and okapi, must be from herds not known to be infected with, exposed to, or affected by tuberculosis. They must also test negative for *M. bovis* using the testing requirements defined in Title 9 C.F.R. Part 77.33 (January 1, 2014).

(d) For all captive wild or exotic animals not listed in Table 2 (~~in subsection (2)(b))~~) of this section, the following statement signed by the animal's owner or agent must be placed on the official certificate of veterinary inspection:

"To my knowledge, the animals listed on this certificate are not infected with tuberculosis and have not been exposed to animals infected with tuberculosis during the past twelve months."

(5) **Pseudorabies:** All wild swine imported for zoos, exhibitions or to a research facility must test negative for pseudorabies no more than thirty days before entry into Washington state and must be held in quarantine for thirty to sixty days pending a postentry retest.

(6) **Equine infectious anemia:** All wild horses, donkeys, and hybrids of the family *Equidae* must test negative on an approved test for equine infectious anemia no more than six months before entry into Washington state.

(7) **Elaphostrongylinae** (*Parelaphostrongylus tenvis* (meningeal worm) and *Elaphostrongylus cervis* (muscle worm)): Before entering Washington state, all *Cervidae* must be examined for *Elaphostrongylinae* infection in the absence of anthelmintic treatment that could mask detection of the parasite.

(a) All *Cervidae* residing for at least six months west of a line through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas or geographical boundaries as otherwise designated by the state veterinarian must have a negative fecal exam for dorsal-spined larvae made by an approved laboratory using the Baermann technique. Animals must be certified that they have not been treated with or exposed to anthelmintics for at least thirty days before testing.

(b) All *Cervidae* residing for less than six months west of a line through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas or geographical boundaries as otherwise designated by the state veterinarian or from east of that line must be held in a pre-entry quarantine for thirty to sixty days and have two fecal tests for dorsal-spined larvae made by an approved laboratory using the Baermann technique.

(i) The first test must be conducted at least thirty days and not more than forty days before the second test.

(ii) Fecal samples of at least thirty grams per sample are to be collected by an accredited veterinarian from the animal's rectum and identified by the animal's official identification number.

(iii) During the thirty-day testing period, test animals must be held in quarantine and isolated from all other *Cervidae* not included in the shipment.

(iv) If any animal tests positive to either of the two fecal tests, neither that animal nor any other animal held in quarantine with the infected animal may be imported into Washington state.

(c) All imported *Cervidae* must be held for one hundred eighty days in an on-site quarantine and be available for inspection by the director during this time.

(d) Every thirty, sixty, ninety, one hundred twenty, one hundred fifty, and one hundred eighty days after arrival, fecal samples from the animals must be tested by the Baermann technique in an approved laboratory and be found negative for dorsal-spined larvae. Animals that test positive for dorsal-spined larvae must either be removed from Washington state or destroyed.

(e) To prevent the presence of the gastropod intermediate hosts of *Elaphostrongylinae* larvae, the quarantine site must be prepared and inspected before the imported animals enter. Preparation includes:

(i) Providing a hard surface, such as asphalt or concrete, on which to keep the animals;

(ii) Spraying the quarantine area with an EPA-registered molluscicide; and

(iii) Spraying a four-meter wide tract around the perimeter of the holding compound with an EPA-registered molluscicide. This perimeter tract must be treated once every five days and within twenty-four hours of precipitation (10 mm or more) to ensure that the gastropod population is kept to zero within the compound.

(8) **Rabies:** Any carnivorous mammal taken from the wild is prohibited from entering Washington state if rabies has been diagnosed in the state of origin during the past twelve months.

WSR 16-23-109

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed November 18, 2016, 8:23 a.m., effective December 19, 2016]

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

Purpose: The department is amending chapter 16-71 WAC to reduce the number of days equine with vesicular stomatitis are held in quarantine after the last documented observation of new lesions and adding the program's e-mail address to the contacts.

Citation of Existing Rules Affected by this Order: Amending WAC 16-71-015 and 16-71-110.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-19-095 on September 21, 2016.

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

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

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

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

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

Date Adopted: November 18, 2016.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 10-13-056, filed 6/10/10, effective 7/11/10)

WAC 16-71-015 Forms used in this chapter. Forms used in this chapter may be obtained from the department at:

Animal Services Division
Washington State Department of Agriculture
1111 Washington St. S.E.
Olympia, WA 98504-2560
E-mail: ahealth@agr.wa.gov
Phone: 360-902-1878.

AMENDATORY SECTION (Amending WSR 10-13-056, filed 6/10/10, effective 7/11/10)

WAC 16-71-110 Vesicular stomatitis. Equine that have been diagnosed with vesicular stomatitis will be held in quarantine with all exposed and susceptible species at the location where livestock were diagnosed until ~~((twenty-one))~~ fourteen days following the ~~((cessation of all clinical signs of disease))~~ last documented observation of new lesions in animals at that location.

WSR 16-23-110
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed November 18, 2016, 8:24 a.m., effective December 19, 2016]

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

Purpose: The department is amending chapter 16-86 WAC to:

- Abolish Q fever testing requirements for raw milk dairies;
- Update the adult vaccination tattoo definition; and
- Add the program's e-mail address to contact lists.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-86-110; and amending WAC 16-86-005, 16-86-008, 16-86-116, 16-86-125, and 16-86-150.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 16-19-094 on September 21, 2016.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 1.

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

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

Date Adopted: November 18, 2016.

Derek I. Sandison
 Director

AMENDATORY SECTION (Amending WSR 16-01-132, filed 12/18/15, effective 1/18/16)

WAC 16-86-005 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture (USDA) Veterinary Services to participate in state-federal cooperative programs.

"Adult vaccination tattoo" means a tattoo in the right ear with the letters ((~~RAV~~)) RA, the United States registered V-shield, followed by the last digit of the year in which the vaccination was administered with RB-51 *Brucella* vaccine. An example is RAV2 for an adult vaccinated in 2012.

"Breed registry tattoo" means individual registry tattoos issued by breed associations.

"Brucellosis vaccine" means only those *Brucella abortus* products that are approved by and produced under license of

the USDA for injection into cattle to enhance their resistance to brucellosis.

"Calhood vaccination tattoo" means a tattoo in the right ear consisting of an R, the United States registered V-shield, and the last digit of the year in which the animal was vaccinated with RB-51 *Brucella* vaccine. An example is RV-shield2 for a calf vaccinated in 2012.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of WSDA or the director's authorized representative.

"Herd plan" means a written management agreement between the animal owner and the state veterinarian, with possible input from a private accredited veterinarian designated by the owner, in which each participant agrees to undertake actions specified in the herd plan to control the spread of infectious, contagious, or communicable disease within and from an infected herd and to work toward eradicating the disease in the infected herd.

"Official calhood vaccinate" means female cattle between four and twelve months of age that are vaccinated with brucellosis vaccine at a calhood dose (2cc subcutaneously) and officially individually identified.

"Official individual identification" means identifying an animal using USDA-approved devices or methods or an alternative form of identification agreed upon by the sending and receiving states, such as unique breed registry tattoos when accompanied by registration documentation. A group of animals may be identified by registered brands when accompanied by a certificate of inspection from a brand inspection authority recognized by the director when agreed upon by the sending and receiving states.

"Official Washington adult vaccinate" means female cattle over the age of twelve months that have resided in Washington state for ninety days or more and are vaccinated with a dose of brucellosis vaccine (2cc subcutaneously) under directions issued by the director.

"Premises" means a location where livestock are kept.

"Timed events" means competitive events that take place where time elapsed is the factor that determines the placing of individuals competing in the event.

"USDA" means the United States Department of Agriculture.

"Virgin bull" means a sexually intact male bovine less than eighteen months of age, as determined by dentition inspection by an accredited veterinarian or verified by breed registration documents, that is confirmed by a statement and the signature of the owner or the owner's designee as having had no breeding contact with female cattle.

AMENDATORY SECTION (Amending WSR 08-01-094, filed 12/17/07, effective 1/17/08)

WAC 16-86-008 Forms used in this chapter. Forms used in this chapter may be obtained from the department at:

Animal Services Division
 Washington State Department of Agriculture
 1111 Washington St. S.E.
 Olympia, WA 98504-2560

E-mail: ahealth@agr.wa.gov
 Phone: 360-902-1878.

AMENDATORY SECTION (Amending WSR 16-01-132, filed 12/18/15, effective 1/18/16)

WAC 16-86-116 Duties of certified, accredited veterinarians—Training requirement for veterinarians performing trichomoniasis testing in cattle. (1) Effective January 1, 2011, accredited veterinarians may not perform official trichomoniasis testing of bulls in Washington state until they are certified to do so by having successfully completed training and passed a proficiency examination provided by the department.

(2) All official trichomoniasis testing of bulls in Washington state shall be performed by a certified, accredited veterinarian.

(3) Information on training opportunities is available by contacting the department at:

Washington State Department of Agriculture
 Animal Services Division
 1111 Washington Street S.E.
 P.O. Box 42577
 Olympia, Washington 98504-2577
[E-mail: ahealth@agr.wa.gov](mailto:ahealth@agr.wa.gov)
[Phone: 360-902-1878](tel:360-902-1878)

(4) Certified veterinarians shall utilize only official laboratories recognized by the state veterinarian for testing trichomoniasis samples. Positive test results will be sent to the department by the next business day.

(5)(a) Quantitative polymerase chain reaction (qPCR) is the test method for official tests accepted by the department.

(b) An official test is one in which the sample is collected by a certified veterinarian and received in the official laboratory in good condition within forty-eight hours of collection. Samples in transit for more than forty-eight hours or have been frozen or exposed to high temperatures will not be accepted for official testing. All samples shipped to the laboratory must be in a transport medium approved by the testing laboratory. All sampling will be obtained by pipette scrapings from the prepuce and glans of a bull.

(6) Each sampled bull shall have a current-year Washington trichomoniasis tag and a USDA-approved official identification tag applied. If a bull already bears an official identification tag at the time of sampling, the individual identification number on that device shall be recorded. Both tag numbers should be recorded on the laboratory submission form so that testing and results can be verified by either number. Additional official individual identification must not be applied.

(7) A trichomoniasis testing year is defined as September 1st through August 31st.

AMENDATORY SECTION (Amending WSR 09-03-019, filed 1/9/09, effective 2/9/09)

WAC 16-86-125 Duties of accredited veterinarians—Training requirement for veterinarians performing tuberculosis testing in cattle and bison. (1) All testing of

cattle or bison in Washington state for tuberculosis shall be performed by a veterinarian accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA APHIS). In addition, all accredited veterinarians testing cattle or bison in Washington state for tuberculosis are required to successfully complete training in tuberculosis testing procedures provided by USDA or the department. Accredited veterinarians who have not successfully completed the training by April 30, 2010, may not perform official tuberculosis testing of cattle or bison in Washington state. (~~(A schedule of)~~) Training opportunities (~~(is)~~) are available by contacting the department at:

Washington State Department of Agriculture
 Animal Services Division
 1111 Washington Street S.E.
 P.O. Box 42577
 Olympia, Washington 98504-2577
[E-mail: ahealth@agr.wa.gov](mailto:ahealth@agr.wa.gov)
[Phone: 360-902-1878.](tel:360-902-1878)

(2) The department may review the testing results and other records associated with tuberculosis testing of cattle or bison by accredited veterinarians in Washington state. In the event that the response rates reported by an accredited veterinarian do not meet the response rates standards established in Appendix C of the *Bovine Tuberculosis Eradication Uniform Methods and Rules*, effective January 1, 2005 (adopted in WAC 16-86-120), the director may require additional training or may refuse to accept the testing of cattle or bison for tuberculosis performed by that veterinarian.

AMENDATORY SECTION (Amending WSR 08-01-094, filed 12/17/07, effective 1/17/08)

WAC 16-86-150 Tuberculosis quarantine and release. (1) Any herd of cattle or bison in which tuberculosis reactors are found will be quarantined. The sale or removal of any animal out of a quarantined herd is prohibited except for removal for immediate slaughter.

(2) Herds in which no gross lesions reactors occur and in which no evidence of *Mycobacterium bovis* infection has been disclosed may be released from quarantine after a sixty-day negative caudal fold tuberculosis retest of the entire herd.

Herds containing one or more suspects to the caudal fold tuberculosis test will be quarantined until the suspect animals are:

(a) Retested by the comparative-cervical tuberculosis test within ten days of the caudal fold injection; or

(b) Retested by the gamma interferon tuberculosis test and the tuberculosis status of the suspect has been determined; or

(c) Retested by the comparative-cervical tuberculosis test after sixty days and the tuberculosis status of the suspect has been determined; or

(d) Shipped under permit directly to slaughter in accordance with state (~~(or)~~) and federal laws and regulations and the tuberculosis status of the suspect has been determined.

(3) Herds in which *Mycobacterium bovis* infection has been confirmed and the herd has not been depopulated will remain under quarantine and must pass two tuberculin tests at

intervals of at least sixty days and one additional test after six months from the previous negative test. Following the release from quarantine, these herds will also be subject to five annual tests on the entire herd.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-86-110 Q fever testing requirements for raw milk dairies.

WSR 16-23-112
PERMANENT RULES
DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed November 18, 2016, 2:38 p.m., effective December 19, 2016]

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

Purpose: WAC 246-886-180 Approved legend drugs, the commission adopted rules adding acetylpromazine, atipamezole, azaperone, dexmedetomidine, isoflurane, tolazoline, and xylazine to the list of noncontrolled legend drugs authorized for use by agents and biologists with the department of fish and wildlife chemical capture program. The amended rule makes available drugs that are more effective in certain circumstances and with certain species.

Citation of Existing Rules Affected by this Order: Amending WAC 246-886-180 Approved legend drugs, chemical capture programs.

Statutory Authority for Adoption: RCW 69.41.080 and 18.64.005.

Adopted under notice filed as WSR 16-17-116 on August 22, 2016.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule included one technical change to the proposed language, which corrected the spelling of the legend drug medetomidine.

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

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

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

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

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

Date Adopted: September 29, 2016.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 12-21-118, filed 10/23/12, effective 11/23/12)

WAC 246-886-180 Approved legend drugs. The following legend drugs are designated as "approved legend drugs" for use by agents and biologists of the Washington state department of fish and wildlife chemical capture programs:

- (1) (~~Naltrexone~~) Acetylpromazine;
- (2) (~~Detomidine~~) Atipamezole;
- (3) (~~Medetomidine; and~~) Azaperone;
- (4) (~~Yohimbine~~) Detomidine;
- (5) Dexmedetomidine;
- (6) Isoflurane;
- (7) Medetomidine;
- (8) Naltrexone;
- (9) Tolazoline;
- (10) Yohimbine; and
- (11) Xylazine.

WSR 16-23-122
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed November 21, 2016, 9:35 a.m., effective December 22, 2016]

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

Purpose: This rule making is a result of a stakeholder request. Clarification of requirements for an alcohol impact area are requested.

Citation of Existing Rules Affected by this Order: Amending WAC 314-12-215.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 16-19-100 on September 21, 2016.

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

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

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

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

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

Date Adopted: November 16, 2016.

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 10-19-065, filed 9/15/10, effective 10/16/10)

WAC 314-12-215 Alcohol impact areas—Definition—Guidelines. (1) **What is an alcohol impact area (and how is it different)?**

(a) An alcohol impact area is a geographic area located within a city, town or county, and that is adversely affected by chronic public inebriation or illegal activity associated with liquor sales or consumption.

(b) The board may place special conditions or restrictions upon off-premises sales privileges, liquor products, applicants, license assumptions or licensees that sell liquor for off-premises consumption (see subsection (3) of this section).

(c) The board applies a unique investigative and review process when evaluating liquor license applications, license assumptions or renewals for businesses located in an alcohol impact area.

(2) **How is an alcohol impact area formed?** A local authority (that is, a city, town or county) must first designate an alcohol impact area by ordinance and make good faith efforts for at least six months to mitigate the effects of chronic public inebriation with such ordinance before petitioning the board to recognize an alcohol impact area. The board must recognize an alcohol impact area before any unique review process, condition or restriction described in this rule may be applied. A local authority must meet certain conditions to achieve board recognition of an alcohol impact area.

(a) The geographic area of an alcohol impact area must not include the entire (~~territory~~) geographic area under the jurisdiction of a local authority. However, when a local authority designates a street as a boundary, the board encourages that the local authority include both sides of the street for greater effectiveness.

(b) The local authority ordinance must explain the rationale of the proposed boundaries, and describe the boundaries in such a way that:

(i) The board can determine which liquor licensees are in the proposed alcohol impact area; and

(ii) The boundaries are understandable to the public at large.

(c) A local authority must:

(i) Submit findings of fact that demonstrate a need for an alcohol impact area and how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate a pervasive pattern of public intoxication or public consumption of liquor as documented in: Crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, ((other similar records,)) community group petitions, public testimony or testimony by current or former chronic public (~~inebriants;~~

~~((iii))~~ inebriates.

(d) Minimum requirements for an alcohol impact area petition packet:

(i) Litter/trash survey and documented results. A litter/trash survey must be conducted within the proposed alcohol impact area boundaries for at least a four week period. Litter/trash surveys must be completed a minimum of twice a week. Use a GIS data map, or similar tool, to point out the "hot spots" of heavy alcohol consumption based on the litter/trash survey. Provide a list of alcohol products found in the litter/trash survey.

(ii) Photographic evidence of litter and drinking in public.

(iii) Law enforcement testimonial(s). Law enforcement testimonial must be from at least one law enforcement officer who frequently works within the proposed alcohol impact area boundaries. A testimonial must discuss the impact of high alcohol content or volume products within the proposed alcohol impact area boundaries and how implementation of an alcohol impact area would benefit the community.

(iv) Letters of support submitted by neighborhood councils, local agencies, schools or universities, business associations, fire departments, local businesses, or private citizens in the community.

(v) Crime statistics and police reports. Crime statistics and police reports must show the statistics for alcohol-related criminal activity within the proposed alcohol impact area boundaries, and must show evidence linking specific products with chronic public inebriation activity.

(e) After reviewing the alcohol impact area petition packet, the board may request supplemental materials to prove the necessity of an alcohol impact area. The supplemental materials may include:

(i) Additional testimonials submitted by citizens who would be directly affected by the proposed alcohol impact area.

(ii) Emergency medical response data. This information must provide evidence that chronic inebriation within the proposed alcohol impact area requires an abnormally high amount of medical emergency care.

(iii) Sanitation reports. This information must provide evidence that chronic inebriation within the proposed alcohol impact area boundaries creates an abnormally high amount of sanitation problems.

(iv) Detoxification reports. This information must provide evidence that chronic inebriation within the proposed alcohol impact area requires an abnormally high amount of detoxification services.

(f) Submit documentation that demonstrates a local authority's past good faith efforts to control the problem through voluntary measures (see subsection (4) of this section)((;

(iv) Explain why past voluntary measures failed to sufficiently resolve the problem; and

(v)). The voluntary compliance report must:

(i) Provide an executive summary of the results of the voluntary compliance period;

(ii) Provide evidence of the local authorities' efforts to control the problem through voluntary measures; and

(iii) Explain why the voluntary measures were not effective and how mandatory restrictions will help address the problem.

(g) Request additional conditions or restrictions and explain how the conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(3) What conditions or restrictions may the board recognize for an alcohol impact area?

(a) Restrictions may include, but are not limited to:

(i) Limitations on business hours of operation for off-premises liquor sales;

(ii) Restrictions on off-premises sale of certain liquor products within an alcohol impact area; ~~((&))~~ and

(iii) Restrictions on container sizes available for off-premises sale.

(b) The board has adopted a standardized list of products that will be banned in alcohol impact areas. The list can be found on the WSLCB web site. The list contains products that are banned in the majority of current alcohol impact areas. Requests for additional product restrictions (for example, prohibition of sale of certain liquor products or container sizes) must originate from a local authority's law enforcement agency or public health authority, whereas restrictions affecting business operations (for example, hours of operation) may originate from a local authority's law enforcement agency, public authority or governing body. ~~((&))~~ Product restrictions must be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public ~~((inebriants))~~ inebriates; litter pickup; or other statistically documented evidence ~~((that a reasonable person may rely upon to determine whether a product is associated with chronic public inebriation or illegal activity.~~

~~(d) Restricted beer and wine products must have minimum alcohol content of five and seven tenths percent by volume and twelve percent by volume, respectively.~~

~~(e) Upon board approval and upon an individual product by individual product basis, a local authority may restrict a product that is already restricted in another board recognized alcohol impact area provided that a product is significantly materially similar (for example, comparable alcohol percent content, container size or liquor category such as alcoholic energy drinks) to products already restricted in its own alcohol impact area. Upon board approval and upon an individual product by individual product basis, a local authority may also restrict a product that is significantly materially similar to products already restricted in its own alcohol impact area. In both cases, a local authority must demonstrate to the board, in writing, the material similarities and need for product inclusion, but the board will not require a local authority to submit extensive documented evidence as described in (e) of this subsection.~~

~~((f)).~~

(c) After the board has recognized an alcohol impact area the local authority may request the board approve additional

products to their banned products list provided that the products are reasonably linked to the problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriates; litter pickup; or other statistically documented evidence.

(d) A local authority may propose the removal of a condition, restriction or product from its alcohol impact area's restricted product list provided that a local authority demonstrates its reason (such as, a product is no longer produced or bottled) to the board in writing.

(4) What types of voluntary efforts must a local authority attempt before the board will recognize an alcohol impact area?

(a) A local authority must notify all off-premises sales licensees in a proposed alcohol impact area that:

(i) Behavior associated with liquor sales and associated illegal activity is impacting chronic public inebriation; and

(ii) Existing voluntary options are available to them to remedy the problem.

(b) A local authority's efforts must include additional voluntary actions. Examples include, but are not limited to:

(i) Collaborative actions with neighborhood citizens, community groups or business organizations to promote business practices that reduce chronic public inebriation;

(ii) Attempts to achieve voluntary agreements with off-premises sales licensees to promote public welfare, health, peace or safety;

~~(iii) Requesting licensees to voluntarily ~~((discontinuing to sell a))~~ discontinue selling products that are considered contributing to the problem;~~

(iv) Distribution of educational materials to chronic public inebriants or licensees;

(v) Detoxification services;

(vi) Business incentives to discourage the sale of problem products; or

(vii) Change in land use ordinances.

(c) A local authority must implement these voluntary agreements for at least six months before a local authority may present documentation to the board that voluntary efforts failed to adequately mitigate the effects of chronic public inebriation and need augmentation.

(5) What will the board do once it recognizes an alcohol impact area?

(a) The board will notify, in a timely manner, the appropriate liquor distributors of the product restrictions.

~~(b) ~~((No state liquor store or agency located within an alcohol impact area may sell that alcohol impact area's restricted products.~~~~

~~((e)))~~ The board will notify, in a timely manner, all off-premises sales licensees in a proposed or existing alcohol impact area whenever the board recognizes, or recognizes changes to, an alcohol impact area (see subsection (7) of this section).

(6) What is the review process for liquor license applications, license assumptions, and renewals inside an alcohol impact area?

(a) When the board receives an application for a new liquor license or a license assumption that includes an off-premises sales privilege, the board will establish an extended time period of sixty calendar days for a local authority to comment upon the application.

(i) A local authority may, and is encouraged to, submit comment before the end of a comment period. A local authority may request an extension of a comment period when unusual circumstances, which must be explained in the request, require additional time for comment.

(ii) A local authority will notify a licensee or applicant when a local authority requests the board to extend a sixty-day comment period.

(b) For renewals, the board will notify a local authority at least ninety calendar days before a current license expires. The same requirements in (a)(i) and (ii) of this subsection apply to the ninety-day comment period for problem renewals. For the purposes of this section, a problem renewal means a licensee, a licensed business or a licensed location with a documented history of noncompliance or illegal activity.

(7) When and for how long will an alcohol impact area be in effect, and may an alcohol impact area be changed?

(a) An alcohol impact area takes effect on the day that the board passes a resolution to recognize an alcohol impact area. However, product prohibitions take effect no less than thirty calendar days after the board passes such resolution in order to give retailers and distributors sufficient time to remove products from their inventories.

(b) An alcohol impact area remains in effect until:

(i) A local authority repeals the enabling ordinance that defines an alcohol impact area;

(ii) A local authority requests that the board revoke its recognition of an alcohol impact area;

(iii) The board repeals its recognition of an alcohol impact area of its own initiative and following a public hearing; or

(iv) A local authority fails to comply with subsection (8) of this section.

(c) A local authority may petition the board to modify an alcohol impact area's geographic boundaries, repeal or modify an existing condition or restriction, or create a new condition or restriction. The board may agree to do so provided that a local authority shows good cause and submits supporting documentation ~~((see))~~ as contained in subsections (2) and (3) of this section~~((s))~~.

(d) Prohibition of a new product added to an existing prohibited products list takes effect no ~~((less))~~ sooner than thirty calendar days following the board's recognition of a modified prohibited products list.

(8) Reporting requirements and five-year assessments.

(a) A year after the implementation of the alcohol impact area a local authority shall submit ~~((annual))~~ a report~~((s))~~ to the board that clearly demonstrates the intended effectiveness of an alcohol impact area's conditions or restrictions. The

report~~((s are))~~ is due no later than sixty calendar days following ~~((each anniversary of the board's recognition of an))~~ the first anniversary of the implementation of the alcohol impact area. The report must include the same categories of information and statistics that were originally used to request the alcohol impact area.

(b) The board will conduct an assessment of an alcohol impact area once every five years following the fifth, tenth, fifteenth, et cetera, anniversary of the board's recognition of ~~((an))~~ the alcohol impact area. The five-year assessment process is as follows:

(i) Within ~~((ten))~~ twenty calendar days of receiving a local authority's fifth, tenth, fifteenth, et cetera, ~~((annual))~~ report, the board shall notify affected parties of the upcoming assessment, whereupon an affected party has twenty calendar days to comment upon, or petition the board to discontinue its recognition of, an alcohol impact area (see (d) of this subsection). Affected parties may include, but are not limited to: Liquor licensees, citizens or neighboring local authorities.

(ii) An affected party may submit a written request for one twenty calendar-day extension of the comment/petition period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the initial twenty-day deadline.

(iii) The board will complete an assessment within sixty calendar days following the close of the final comment/petition period.

(c) An assessment shall include an analysis of:

(i) The same categories of information and statistics that were originally used to request the alcohol impact area; and

~~((; and~~ (ii) Comments or petitions submitted by affected parties

~~((; and~~ (ii) Each annual report submitted during a five-year period)).

An assessment ~~((shall))~~ may also include modifications that a local authority must make to an alcohol impact area as required by the board, or the board's reasons for revoking recognition of an alcohol impact area.

(d) To successfully petition the board to discontinue its recognition of an alcohol impact area, an affected party must:

(i) Submit findings of fact that demonstrate how chronic public inebriation~~((s))~~ or illegal activity associated with liquor sales or consumption~~((s))~~ within a proposed alcohol impact area does not or no longer:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate the absence of a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records or similar records; and

(iii) Demonstrate how the absence of conditions or restrictions will ~~((reduce))~~ affect chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(e) An affected party may submit a written request for one twenty-day extension of the comment period, which the

board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the twenty-day deadline.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 16-23-132
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed November 21, 2016, 2:34 p.m., effective December 22, 2016]

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

Purpose: Chapter 46.80 RCW does not provide authority to the department to set fees for Vehicle wrecker—Special plates. The rule change will remove plate fees identified in WAC 308-63-060.

Citation of Existing Rules Affected by this Order: Amending WAC 308-63-060 Vehicle wrecker—Special plates.

Statutory Authority for Adoption: RCW 46.80.140.

Adopted under notice filed as WSR 16-17-015 on August 5, 2016.

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

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

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

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

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

Date Adopted: November 21, 2016.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-08-065, filed 3/27/09, effective 4/27/09)

WAC 308-63-060 Vehicle wrecker—Special plates. How do I use the special vehicle wrecker license plates? All vehicles used for towing or transporting vehicles or vehicle parts by a vehicle wrecker on the highways of this state in the conduct of the business must bear regular license plates and, in addition, special wrecker's plates. ~~((Wrecker's plates may be obtained at a fee of six dollars which includes one dollar for reflectorization under RCW 46.16.237 for the first set, and three dollars including reflectorization for each additional set.))~~

The wrecker may purchase sets of plates equal in number to the number of vehicles reported on the application as

owned, rented, leased and operated by the applicant for towing or transporting of vehicles or vehicle parts in the conduct of the business. Should the wrecker purchase, lease, or rent additional vehicles for towing or transporting of vehicles or vehicle parts, the applicant must so inform the department and may obtain additional plates for such vehicles.

Each vehicle used for towing or transporting of vehicles or vehicle parts must display both wrecker plates of the same number. However, when any vehicle being towed does not have valid license plates, the set of wrecker plates may be split, with one being displayed on the front of the towing vehicle and the other on the rear of the vehicle being towed.

WSR 16-23-133
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed November 21, 2016, 2:55 p.m., effective December 22, 2016]

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

Purpose: Chapter 46.79 RCW does not provide authority to the department to set fees for Hulk haulers—Special plates and scrap processor—Special plates. The amendment will remove plate fees identified in WAC 308-65-060 and 308-65-110.

Citation of Existing Rules Affected by this Order: Amending WAC 308-65-060 Hulk hauler—Special plates and 308-65-110 Scrap processor—Special plates.

Statutory Authority for Adoption: RCW 46.79.080.

Adopted under notice filed as WSR 16-17-016 on August 5, 2016.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 21, 2016.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-13-020, filed 6/12/00, effective 7/13/00)

WAC 308-65-060 Hulk hauler—Special plates. How must I display the hulk hauler license plates? All vehicles used by hulk haulers on the highways of this state shall bear regular license plates and in addition, special hulk hauler's plates. Each vehicle shall display both special plates assigned

to it, provided that when any vehicle being towed does not have valid license plates, the hulk hauler plates may be split, with one being displayed on the front of the towing vehicle and the other on the rear of the vehicle being towed. The plates serve in lieu of a trip permit or current license plates for the vehicle(s) being transported.

~~((The plates may be obtained at a fee of six dollars for the first set, and three dollars for each additional set which charges include the reflectorization fee required by RCW 46.16.237.))~~

AMENDATORY SECTION (Amending WSR 00-13-020, filed 6/12/00, effective 7/13/00)

WAC 308-65-110 Scrap processor—Special plates. What special license plates are available? Vehicles owned or operated on the highways of this state by a scrap processor and used by the scrap processor in gathering vehicle hulks or salvage shall bear regular license plates and, in addition, hulk hauler plates. Such plates serve in lieu of a trip permit or current license for any vehicle being transported. Each vehicle shall display all plates issued to it.

~~((The plates may be obtained at a fee of six dollars for the first set, and three dollars for each additional set including the reflectorization fee required by RCW 46.16.237; they expire simultaneously with the scrap processor's license.))~~

**WSR 16-23-138
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed November 22, 2016, 8:56 a.m., effective December 23, 2016]

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

Purpose: This rule amends chapter 296-823 WAC, Occupational exposure to bloodborne pathogens and WAC 296-27-031 Reporting fatalities, inpatient hospitalizations, amputations, and losses of an eye as the result of work-related incidents. The purpose of adopting this rule making regarding chapter 296-823 WAC is to ensure the recordkeeping and reporting requirements are in line with those in chapter 296-27 WAC, Recordkeeping and reporting, as well as being at-least-as-effective-as the Occupational Safety and Health Administration (OSHA). When WAC 296-27-031 was updated to be in line with OSHA in 2015, a requirement to report all motor vehicle accidents was inadvertently deleted, but this rule making reinstated this requirement, keeping labor and industries at-least-as-effective-as OSHA.

WAC 296-27-031 Reporting fatalities, inpatient hospitalizations, amputations, and losses of an eye as the result of work-related incidents.

- Removed subsection (9) and renumbered the rest of the section.

WAC 296-823-170 Records.

- Updated title from "Records" to "Medical records and recording needle stick and sharps injuries."

- Updated "Your Responsibility" section to read "To establish and maintain medical records, and record all occupational injuries resulting from contaminated needle sticks or cuts from contaminated sharps."
- Updated the table to read:

You must ((meet the requirements)) ...	in ((this)) section:
Establish and maintain medical records	WAC 296-823-17005
((Maintain a sharps injury log)) <u>Record needle stick and sharps injuries.</u>	WAC 296-823-17010

WAC 296-823-17010 Maintain a sharps injury log.

- Updated title of WAC to read "Recording needle stick and sharps injuries."
- Updated subsection (1) to read: "You must follow the requirements in chapter 296-27 WAC, Recordkeeping and reporting, for recording occupational injuries and illnesses including needle stick and sharps injuries, unless you meet one of the exemptions specified in WAC 296-27-00103 or 296-27-00105."
- Updated subsection (2) to read: "If you are not exempt from the recordkeeping requirements in chapter 296-27 WAC, then you must also record the type and brand of device involved in injuries resulting from a needle stick or cut with a sharps that is contaminated with another person's blood or other potentially infectious material on the OSHA 300 log or equivalent form."
- Removed subsection (3) and the note following it.

Citation of Existing Rules Affected by this Order: See Purpose above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, and 49.17.050.

Adopted under notice filed as WSR 16-16-105 on August 2, 2016.

Changes Other than Editing from Proposed to Adopted Version: When WAC 296-27-031 was updated to be in line with OSHA in 2015, it included a requirement to report any fatality, inpatient hospitalization, amputation, or loss of an eye that resulted from a motor vehicle accident that occurred in a construction work zone but inadvertently included language exempting the reporting of a fatality, inpatient hospitalization, amputation, or loss of an eye motor vehicle accident that occurred on a public street or highway not in a construction work zone. The proposed rules deleted the language exempting the reporting of the incidents resulting from motor vehicle accidents on a public street or highway. As the intent of the rule making is to have all motor vehicle accidents reported, this final rule as adopted deleted all of WAC 296-27-031(9).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: November 22, 2016.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-031 Reporting fatalities, inpatient hospitalizations, amputations, and losses of an eye as the result of work-related incidents. (1) You must report to DOSH within eight hours of a work-related incident that results in:

- (a) A fatality; or
- (b) An inpatient hospitalization of any employee.

Notes:

1. Secure the scene of work-related events that result in the death or inpatient hospitalization of any worker, refer to WAC 296-800-320.
2. Do not move equipment involved (i.e., personal protective equipment (PPE), tools, machinery or other equipment), unless it is necessary to remove the victim or prevent further injuries, refer to WAC 296-800-32010.

(2) You must report to DOSH within twenty-four hours of a work-related incident that results in either an amputation or the loss of an eye that does not require inpatient hospitalization.

Notes:

1. If the amputation or loss of an eye requires inpatient hospitalization, follow the eight-hour reporting requirement in WAC 296-27-031(1).
2. Inpatient hospitalization that involves only observation or diagnostic testing is not a reportable inpatient hospitalization.

(3) If you do not learn about a reportable fatality, inpatient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to DOSH within the following time periods after the fatality, inpatient hospitalization, amputation, or loss of an eye is reported to you or any of your agents:

- (a) Eight hours for a fatality or an inpatient hospitalization of one or more employees.
- (b) Twenty-four hours for an amputation or a loss of an eye that does not require inpatient hospitalization.
- (4) If you do not learn right away that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to DOSH within the following time periods after you or any of your agents learn that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident:

(a) Eight hours for a fatality or an inpatient hospitalization of one or more employees.

(b) Twenty-four hours for an amputation or a loss of an eye that does not require inpatient hospitalization.

(5) You must report the fatality, inpatient hospitalization, amputation, or loss of an eye in the required time frame using one of the following methods:

(a) By telephone to the department's toll-free telephone number, 1-800-4BE-SAFE (1-800-423-7233) or in person to the Labor and Industries' Division of Occupational Safety and Health (DOSH) office located nearest to the site of the incident;

(b) By telephone to the OSHA toll-free telephone number, 1-800-321-OSHA (1-800-321-6742); or

(c) To DOSH by any other means.

(6) If the local office is closed, you must report a fatality, inpatient hospitalization, amputation, or the loss of an eye incident by:

(a) Calling the department at 1-800-4BE-SAFE (1-800-423-7233); or

(b) Calling OSHA's toll-free telephone number at 1-800-321-6742.

(7) You must provide DOSH with the following information for each fatality, inpatient hospitalization, amputation, or loss of an eye:

- (a) The establishment name;
- (b) The location of the work-related incident;
- (c) The time and date of the work-related incident;
- (d) The type of reportable event (i.e., fatality, inpatient hospitalization, amputation, or loss of an eye);
- (e) The number of employees who suffered a fatality, inpatient hospitalization, amputation, or loss of an eye;
- (f) The names of the employees who suffered a fatality, inpatient hospitalization, amputation, or loss of an eye;
- (g) Your contact person and their phone number; and
- (h) A brief description of the work-related incident.

(8) If a fatality does not occur during or right after the work-related incident, you must only report it to DOSH if the fatality occurs within thirty days of the work-related incident.

~~(9) ((You must report a fatality, inpatient hospitalization, amputation, or loss of an eye that resulted from a motor vehicle accident that occurred in a construction work zone. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye. However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.~~

~~((10))~~ You do not have to report an incident that resulted in a fatality, inpatient hospitalization, amputation, or loss of an eye to DOSH if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

~~((11))~~ (10) You must report to DOSH when a heart attack occurs in the work environment that results in a fatality or inpatient hospitalization. DOSH will decide whether to investigate the event, depending on the circumstances of the heart attack.

~~((12))~~ (11) You must only report to DOSH each inpatient hospitalization that involves medical care or treatment. Inpatient hospitalization involving only observation or diagnostic testing need not be reported.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-823-170 Medical records and recording needle stick and sharps injuries.

Summary

Your responsibility:

To ~~((obtain))~~ establish and maintain ~~((required))~~ medical records, and record all occupational injuries resulting from contaminated needle sticks or cuts from contaminated sharps.

You must ((meet the requirements)) ...	in ((this)) section:
Establish and maintain medical records	WAC 296-823-17005
((Maintain a sharps injury log)) <u>Record needle stick and sharps injuries</u>	WAC 296-823-17010

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-823-17010 ~~((Maintain a))~~ Recording needle stick and sharps ~~((injury log))~~ injuries.

~~((EXEMPTION: You are exempt from the requirements to record contaminated sharps injuries if you have ten or less employees.))~~

(1) You must ~~((record contaminated sharps injuries on your OSHA 300 or equivalent log))~~ follow the requirements in chapter 296-27 WAC, Recordkeeping and reporting, for recording occupational injuries and illnesses including needle stick and sharps injuries, unless you meet one of the exemptions specified in WAC 296-27-00103 or 296-27-00105.

~~((Reference: Requirements for the OSHA 300 log are found in chapter 296-27 WAC, Recordkeeping and reporting.))~~

~~((2) You must record and maintain contaminated sharps injury information in a way that protects the confidentiality of the injured employee.))~~

~~((3) You must also record the following additional information for contaminated sharps injuries:))~~

~~((a) The type and brand of device involved in the incident;))~~

~~((b) The department or work area where the exposure incident occurred;))~~

~~((c) An explanation of how the incident occurred.))~~

~~((4) You must maintain your contaminated sharps injury records for five years.))~~

Note: You may record the additional information in any format you choose, such as on the OSHA 300 and 301 forms. It must be retrievable and identifiable to each specific injury.))

(2) If you are not exempt from the recordkeeping requirements in chapter 296-27 WAC, then you must also record the type and brand of device involved in injuries

resulting from a needle stick or cut with a sharps that is contaminated with another person's blood or other potentially infectious material on the OSHA 300 log or equivalent form.

WSR 16-23-139

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed November 22, 2016, 8:59 a.m., effective January 1, 2017]

Effective Date of Rule: January 1, 2017.

Purpose: The purpose of this rule making is to increase the electrical fees by the fiscal growth factor rate of 4.32 percent for fiscal year 2017 (within the allowable fiscal growth rate established by the office of financial management) in chapter 296-46B WAC, Electrical safety standards, administration, and installation. The program's budget and projected revenue were evaluated and a fee increase is necessary to support the program's operating expenses and to maintain an acceptable level of services for customers.

Citation of Existing Rules Affected by this Order: Amending WAC 296-46B-906, 296-46B-909, and 296-46B-911.

Statutory Authority for Adoption: Chapter 19.28 RCW, Electricians and electrical installations, including RCW 19.28.031, 19.28.101, 19.28.051, and 19.28.211.

Adopted under notice filed as WSR 16-17-130 on August 23, 2016.

Changes Other than Editing from Proposed to Adopted Version: There was a minor change to WAC 296-46B-909 (6)(a) to correct an error. The fee amount of \$589.90 was underscored and should have been stricken to reflect the new fee amount.

A final cost-benefit analysis is available by contacting Alicia Curry, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6244, fax (360) 902-5292, e-mail Alicia.Curry@Lni.wa.gov.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: November 22, 2016.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 14-11-075, filed 5/20/14, effective 7/1/14)

WAC 296-46B-906 Inspection fees. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

(1) Residential.

(a) Single- and two-family residential (New Construction).

Notes:

- (1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)
- (2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.
- (3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.
- (4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft.	\$(90.30) 94.20
Each additional 500 sq. ft. or portion of	\$(28.90) 30.10
(ii) Each outbuilding or detached garage - Inspected at the same time as a dwelling unit on the property	\$(37.60) 39.20
(iii) Each outbuilding or detached garage - Inspected separately	\$(59.50) 62.00
(iv) Each swimming pool - Inspected with the service	\$(59.50) 62.00
(v) Each swimming pool - Inspected separately	\$(90.30) 94.20
(vi) Each hot tub, spa, or sauna - Inspected with the service	\$(37.60) 39.20
(vii) Each hot tub, spa, or sauna - Inspected separately	\$(59.50) 62.00
(viii) Each septic pumping system - Inspected with the service	\$(37.60) 39.20
(ix) Each septic pumping system - Inspected separately	\$(59.50) 62.00

(b) Multifamily residential and miscellaneous residential structures, services and feeders (New Construction).

Each service and/or feeder

Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$(97.40) 101.60	\$(28.90) 30.10
201 to 400	\$(121.10) 126.30	\$(59.50) 62.00
401 to 600	\$(166.40) 173.50	\$(82.80) 86.30
601 to 800	\$(213.50) 222.70	\$(113.70) 118.60

801 and over	\$(304.50) 317.60	\$(228.40) 238.20
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(c) Single or multifamily altered services or feeders including circuits.

(i) Each altered service and/or altered feeder

Ampacity	Service/Feeder
0 to 200	\$(82.80) 86.30
201 to 600	\$(121.10) 126.30
601 and over	\$(182.60) 190.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) ~~\$(44.80)~~
46.70

(d) Single or multifamily residential circuits only (no service inspection).

Note:

Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above)	\$(59.50) 62.00
(ii) Each additional circuit (see note above)	\$(6.40) 6.60

(e) Mobile homes, modular homes, mobile home parks, and RV parks.

(i) Mobile home or modular home service or feeder only	\$(59.50) 62.00
(ii) Mobile home service and feeder	\$(97.40) 101.60

(f) Mobile home park sites and RV park sites.

Note:

For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

(i) First site service or site feeder	\$(59.50) 62.00
(ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder	\$(37.60) 39.20

(2) Commercial/industrial.

(a) New service or feeder, and additional new feeders inspected at the same time (includes circuits).

Note:

For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated using this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$(97.40) 101.60	\$(59.50) 62.00
101 to 200	\$(118.60) 123.70	\$(75.80) 79.00
201 to 400	\$(228.40) 238.20	\$(90.30) 94.20

Ampacity	Service/Feeder	Additional Feeder
401 to 600	\$((266.20)) <u>277.60</u>	\$((106.30)) <u>110.80</u>
601 to 800	\$((344.30)) <u>359.10</u>	\$((144.80)) <u>151.00</u>
801 to 1000	\$((420.30)) <u>438.40</u>	\$((175.20)) <u>182.70</u>
1001 and over	\$((458.50)) <u>478.30</u>	\$((244.50)) <u>255.00</u>

(b) Altered services/feeders (no circuits).

(i) Service/feeder

Ampacity	Service/Feeder
0 to 200	\$((97.40)) <u>101.60</u>
201 to 600	\$((228.40)) <u>238.20</u>
601 to 1000	\$((344.30)) <u>359.10</u>
1001 and over	\$((382.40)) <u>398.90</u>

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$((82.80))
86.30

(c) Circuits only.

Note:

Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(table) above.

- (i) First 5 circuits per branch circuit panel \$((75.80))
79.00
- (ii) Each additional circuit per branch circuit panel \$((6.40))
6.60
- (d) **Over 600 volts surcharge per permit.** \$((75.80))
79.00

(3) Temporary service(s).

Notes:

- (1) See WAC 296-46B-590 for information about temporary installations.
- (2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections will be the greater of the fee from this subsection or the portal-to-portal fee.

Temporary services, temporary stage or concert productions.

Ampacity	Service/Feeder	Additional Feeder
0 to 60	\$((52.10)) <u>54.30</u>	\$((26.70)) <u>27.80</u>
61 to 100	\$((59.50)) <u>62.00</u>	\$((28.90)) <u>30.10</u>
101 to 200	\$((75.80)) <u>79.00</u>	\$((37.60)) <u>39.20</u>
201 to 400	\$((90.30)) <u>94.20</u>	\$((44.90)) <u>46.80</u>
401 to 600	\$((121.10)) <u>126.30</u>	\$((59.50)) <u>62.00</u>
601 and over	\$((137.40)) <u>143.30</u>	\$((68.40)) <u>71.30</u>

(4) Irrigation machines, pumps, and equipment.

Irrigation machines.

- (a) Each tower - When inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL \$((6.40))
6.60
- (b) Towers - When not inspected at the same time as a service and feeder - 1 to 6 towers \$((90.30))
94.20
- (c) Each additional tower \$((6.40))
6.60

(5) Miscellaneous - Commercial/industrial and residential.

(a) **A Class 2 low-voltage thermostat** and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.

- (i) First thermostat \$((44.90))
46.80
- (ii) Each additional thermostat inspected at the same time as the first \$((13.90))
14.50

(b) **Class 2 or 3 low-voltage systems and telecommunications systems.** Includes all telecommunications installations, fire alarm, nurse call, energy management control systems, industrial and automation control systems, lighting control systems, and similar Class 2 or 3 low-energy circuits and equipment not included in WAC 296-46B-908 for Class B work.

- (i) First 2500 sq. ft. or less \$((52.10))
54.30
- (ii) Each additional 2500 sq. ft. or portion thereof \$((13.90))
14.50

(c) Signs and outline lighting.

- (i) First sign (no service included) \$((44.90))
46.80
- (ii) Each additional sign inspected at the same time on the same building or structure \$((21.20))
22.10

(d) Berth at a marina or dock.

Note:

Five berths or more will be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL above.

- (i) Berth at a marina or dock \$((59.50))
62.00
- (ii) Each additional berth inspected at the same time \$((37.60))
39.20

(e) Yard pole, pedestal, or other meter loops only.

- (i) Yard pole, pedestal, or other meter loops only \$((59.50))
62.00
- (ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations \$((13.90))
14.50

(f) Inspection appointment requested for outside of normal working hours.

Regular fee plus surcharge of: \$((113.70))
118.60

(g) Generators.

Note:

Permanently installed generators: Refer to the appropriate residential or commercial new/altered service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators \$((82.80))
86.30

(h) Electrical - Annual permit fee.

Note:

See WAC 296-46B-901(13).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	\$((2,189.70)) <u>2,284.20</u>
4 to 6 plant electricians	24	\$((4,381.80)) <u>4,571.00</u>
7 to 12 plant electricians	36	\$((6,572.30)) <u>6,856.20</u>
13 to 25 plant electricians	52	\$((8,764.40)) <u>9,143.00</u>
More than 25 plant electricians	52	\$((10,956.50)) <u>11,429.80</u>

(i) Telecommunications - Annual permit fee.

Notes:

(1) See WAC 296-46B-901(12).

(2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum	\$((181.00)) <u>188.80</u>
Each additional hour, or portion thereof, of portal-to-portal inspection time	\$((90.30)) <u>94.20</u>

(j) Permit requiring ditch cover inspection only.

Each 1/2 hour, or portion thereof	\$((44.90)) <u>46.80</u>
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(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor.

	\$((75.80)) <u>79.00</u>
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(6) Carnival inspections.

(a) First carnival field inspection each calendar year.

(i) Each ride and generator truck	\$((21.20)) <u>22.10</u>
(ii) Each remote distribution equipment, concession, or gaming show	\$((6.40)) <u>6.60</u>
(iii) If the calculated fee for first carnival field inspection above is less than \$100.50, the minimum inspection fee will be:	\$((113.70)) <u>118.60</u>

(b) Subsequent carnival inspections.

(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show	\$((113.70)) <u>118.60</u>
(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show	\$((6.40)) <u>6.60</u>

(c) Concession(s) or ride(s) not part of a carnival.

(i) First field inspection each year of a single concession or ride, not part of a carnival	\$((90.30)) <u>94.20</u>
(ii) Subsequent inspection of a single concession or ride, not part of a carnival	\$((59.50)) <u>62.00</u>

(7) Trip fees.

(a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.)	\$((90.30)) <u>94.20</u>
(b) Submitter notifies the department that work is ready for inspection when it is not ready.	\$((44.90)) <u>46.80</u>
(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection.	\$((44.90)) <u>46.80</u>
(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work.	\$((44.90)) <u>46.80</u>
(e) Each trip necessary to remove a noncompliance notice.	\$((44.90)) <u>46.80</u>
(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted.	\$((44.90)) <u>46.80</u>
(g) Installations that are covered or concealed before inspection.	\$((44.90)) <u>46.80</u>

(8) Progress inspections.

Note:

The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.

On partial or progress inspections, each 1/2 hour.	\$((44.90)) <u>46.80</u>
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(9) Plan review.

(a) Plan review fee is 35% of the electrical work permit fee as determined by WAC 296-46B-906.	35%
(b) Plan review submission fee .	\$((75.80)) <u>79.00</u>
(c) Supplemental submissions of plans per hour or fraction of an hour of review time.	\$((90.30)) <u>94.20</u>
(d) Plan review handling fee.	\$((21.20)) <u>22.10</u>

(10) Out-of-state inspections.

(a) Permit fees will be charged according to the fees listed in this section.	
(b) Travel expenses:	
All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.	

(11) Other inspections.

Inspections not covered by above inspection fees must be charged portal-to-portal per hour:	\$((90.30)) <u>94.20</u>
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(12) Variance request processing fee.

Variance request processing fee. This fee is nonrefundable once the transaction has been validated.	\$((90.30)) <u>94.20</u>
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~~**(13) Marking of industrial utilization equipment.**~~

(a) Standard(s) letter review (per hour of review time).	\$90.30
(b) Equipment marking—Charged portal-to-portal per hour.	\$90.30

(e) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.

~~(14))~~ **(13) Class B basic electrical work labels.**

- (a) Block of twenty Class B basic electrical work labels (not refundable). \$((248.00))
258.70
- (b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour timed from leaving the previous inspection until the reinspection is completed). See WAC 296-46B-908(5). \$((44.90))
46.80
- (c) Reinspection of Class B basic electrical work because of a failed inspection of another Class B label (per 1/2 hour from previous inspection until the reinspection is completed). See WAC 296-46B-908(5). \$((44.90))
46.80

~~((15))~~ **(14) Provisional electrical work permit labels.**

- Block of twenty provisional electrical work permit labels. \$((248.00))
258.70

AMENDATORY SECTION (Amending WSR 14-11-075, filed 5/20/14, effective 7/1/14)

WAC 296-46B-909 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, copy, and miscellaneous fees.

- Notes:**
- (1) The department will deny renewal of a license, certificate, or permit if an individual owes money as a result of an outstanding final judgment(s) to the department or is in revoked status. The department will deny application of a license, certificate, or permit if an individual is in suspended status or owes money as a result of an outstanding final judgment(s) to the electrical program.
 - (2) Certificates may be prorated for shorter renewal periods in one-year increments. Each year or part of a year will be calculated to be one year.
 - (3) The amount of the fee due is calculated based on the fee effective at the date payment is made.

(1) General or specialty contractor's license per twenty-four month period. (Nonrefundable after license has been issued.)

- (a) **Initial application or renewal made in person, by mail, or by fax** \$((266.20))
277.60
- (b) **Renewal fully completed using the online web process** \$((230.20))
240.10
- (c) **Reinstatement of a general or specialty contractor's license after a suspension** \$((53.90))
56.20

(2) Master electrician/administrator/electrician/trainee certificate.

- (a) **Examination application (nonrefundable)**
Administrator certificate examination application. \$((33.30))
34.70
(Required only for department administered examinations.) (Not required when testing with the department's contractor.)

(b) Examination fees (nonrefundable)

Note:
Normal examination administration is performed by a state authorized contractor. The fees for such examinations are set by contract with the department. For written examinations administered by the department, use the following fee schedule.

- (i) Master electrician or administrator first-time examination fee (when administered by the department) \$((80.40))
83.80
- (ii) Master electrician or administrator retest examination fee (when administered by the department) \$((94.20))
98.20
- (iii) Journey level or specialty electrician examination fee (first test or retest when administered by the department) \$((60.50))
63.10
- (iv) Certification examination review fee \$((124.60))
129.90

(c) Original certificates (nonrefundable after certificate has been issued)

- (i) Electrical administrator original certificate (except 09 telecommunication) \$((120.40))
125.60
- (ii) Telecommunications administrator original certificate (for 09 telecommunications) \$((80.10))
83.50
- (iii) Master electrician exam application (includes original certificate and application processing fee) \$((154.00))
~~\$((33.30))~~ 160.60
34.70 is nonrefundable after application is submitted)

- (iv) Journey level or specialty electrician application (includes original certificate and application processing fee) \$((86.30))
~~\$((33.30))~~ 90.00
34.70 is nonrefundable after application is submitted)

- (v) Training certificate
- (A) Initial application made in person, by mail, or by fax \$((42.30))
44.10
- (B) Initial application fully completed online using the online web process \$((36.40))
37.90
- (C) 0% supervision modified training certificate. Includes trainee update of hours (i.e., submission of affidavit of experience) \$((77.00))
~~\$((51.20))~~ 80.30
53.40 is nonrefundable after application is submitted)

- (D) 75% supervision modified training certificate. \$((51.20))
53.40
- (E) Unsupervised training certificate as allowed by RCW 19.28.161 (4)(b). \$((25.40))
26.40

(d) Certificate renewal (nonrefundable)

- (i) Master electrician or administrator certificate renewal
- (A) Renewal made in person, by mail, or by fax \$((152.20))
158.70
- (B) Renewal fully completed using the online web process \$((132.20))
137.90

- (ii) Telecommunications (09) administrator certificate renewal
- (A) Renewal made in person, by mail, or by fax \$((101.40))
105.70
- (B) Renewal fully completed using the online web process \$((87.50))
91.20

- (iii) Late renewal of master electrician or administrator certificate
- (A) Renewal made in person, by mail, or by fax \$((304.40))
317.50
- (B) Renewal fully completed using the online web process \$((264.50))
275.90

- (iv) Late renewal of telecommunications (09) administrator certificate
- (A) Renewal made in person, by mail, or by fax \$((202.90))
211.60
- (B) Renewal fully completed using the online web process \$((175.00))
182.50

(v) Journey level or specialty electrician certificate renewal	
(A) Renewal made in person, by mail, or by fax	\$(80.10) 83.50
(B) Renewal fully completed using the online web process	\$(69.70) 72.70
(vi) Late renewal of journey level or specialty electrician certificate	
(A) Renewal made in person, by mail, or by fax	\$(160.30) 167.20
(B) Renewal fully completed using the online web process	\$(139.50) 145.50
(vii) Trainee update of hours outside of renewal period (i.e., submission of affidavit of experience outside of the timeline in WAC 296-46B-942 (8)(d))	\$(51.20) 53.40
(viii) Trainee certificate renewal	
(A) Renewal made in person, by mail, or by fax	\$(51.20) 53.40
(B) Renewal fully completed using the online web process when the affidavit of experience is submitted per WAC 296-46B-942 (8)(d)	\$(44.70) 46.60
(ix) Late trainee certificate renewal	
(A) Renewal made in person, by mail, or by fax	\$(71.80) 74.90
(B) Renewal fully completed using the online web process	\$(62.50) 65.20
(e) Certificate - Reinstatement (nonrefundable)	
(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)	\$(53.90) 56.20
(ii) Reinstatement of suspended journey level, or specialty electrician certificate (in addition to normal renewal fee)	\$(25.40) 26.40
(f) Assignment/unassignment of master electrician/administrator designation (nonrefundable)	\$(39.90) 41.60
(3) Certificate/license.	
(a) Replacement for lost or damaged certificate/license. (Nonrefundable.)	\$(17.50) 18.20
(b) Optional display quality General Master Electrician certificate.	\$(28.40) 29.60
(4) Continuing education courses or instructors. (Nonrefundable.)	
(a) If the course or instructor review is performed by the electrical board or the department	
The course or instructor review	\$(51.30) 53.50
(b) If the course or instructor review is contracted out by the electrical board or the department	
(i) Continuing education course or instructor submittal and approval (per course or instructor)	As set in contract
(ii) Applicant's request for review, by the chief electrical inspector, of the contractor's denial	\$(124.90) 130.20
(5) Copy fees. (Nonrefundable.)	
(a) Certified copy of each document (maximum charge per file):	\$(56.70) 59.10
(i) First page:	\$(25.40) 26.40
(ii) Each additional page:	\$2.10

(b) RCW or WAC printed document:	\$(5.60) 5.80
(6) Training school program review fees. Initial training school program review fee. (Nonrefundable.)	
(a) Initial training school program review fee submitted for approval. Valid for three years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$(589.90) 615.30
(b) Renewal of training school program review fee submitted for renewal. Valid for 3 years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$(294.90) 307.60

AMENDATORY SECTION (Amending WSR 12-11-108, filed 5/22/12, effective 6/30/12)

WAC 296-46B-911 Electrical testing laboratory and engineer accreditation fees. The amount of the fee due is calculated based on the fee effective at the date payment is made.

Electrical testing laboratory	
Initial filing fee: (Nonrefundable)	\$(560.80) 585.00
Initial accreditation fee:	
1 product category	\$(280.30) 292.40
Each additional category for the next 19 categories	\$(112.10) 116.90 each
Maximum for 20 categories or more	\$(2,411.60) 2,515.70
Renewal fee: (Nonrefundable)	50% of initial filing fee
Renewal of existing accreditations	
Each additional category for the next 19 categories	\$(112.10) 116.90 each
Maximum for 20 categories or more	\$(2,411.60) 2,515.70
Engineer for evaluating industrial utilization equipment	
Initial filing fee: (Nonrefundable)	\$(560.80) 585.00
Renewal fee: (Nonrefundable)	50% of initial filing fee

WSR 16-23-141

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed November 22, 2016, 9:04 a.m., effective December 23, 2016]

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

Purpose: The purpose of this rule making was to fix any outstanding housekeeping issues that were on the department of labor and industries, division of occupational safety and health's change log for chapter 296-829 WAC, Helicopters; chapter 296-876 WAC, Ladders, portable and fixed; and chapter 296-878 WAC, Window cleaning.

Amended Sections:**WAC 296-829-099 Definitions.**

- Removed definition of "Jet A [type] fuel."
- WAC 296-829-40020 Make sure the load is handled correctly.**
 - Changed the term "figure" to "illustration" in subsection (1).
- WAC 296-876-100 Scope.**
 - Added "For requirements related to mobile ladder stands or rolling ladders, please refer to WAC 296-874-20024 Make sure stairway-type ladders meet these requirements."
- WAC 296-876-60050 Extensions and grab bars.**
 - Deleted subsection (3) and renumbered the rest of the section - this was duplicated. The exact same sentence is in subsection (1).
- WAC 296-878-15005 Select and use appropriate equipment.**
 - Updated reference in Table 1 from WAC 296-800-876 to chapter 296-876 WAC.

Citation of Existing Rules Affected by this Order: See Purpose above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 16-17-131 on August 23, 2016.

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

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

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

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

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

Date Adopted: November 22, 2016.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-829-099 Definitions.

Aviation gasoline. Gasoline fuel for reciprocating piston engine helicopters, also known as avgas.

Cargo hook. A device attached to a helicopter that is used to hold suspended loads.

Competent person. One who is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Deadman controls. A control, switch or device that will automatically shut off whenever the operator releases it.

Deposit area. An area that is designated for dropping off and picking up suspended loads.

Downwash. The wind created by the rotating blades of a helicopter.

Ground device. A device used to dissipate the static electricity charge that has built up on a suspended load.

Helicopter crane. A helicopter that carries cargo or equipment suspended underneath it.

~~(**Jet A type fuel.** A kerosene grade fuel suitable for helicopters with turbine engines.)~~

Jet B type fuel. A blend of gasoline and kerosene fuel.

Powered hoist. A powered device designed to lift and lower equipment and cargo.

Tag line. A line or rope used to control suspended loads that can swing freely.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-829-40020 Make sure the load is handled correctly. (1) You must make sure signal systems, whether radio or hand signals, are checked before hoisting the load. When using hand signals, use those shown in ~~((Figure))~~ Illustration 1.

(2) You must make sure workers on the ground do **either** of the following before touching the suspended load:

(a) Use a ground device to safely discharge any static charge; or

(b) Put on and wear rubber gloves.

(3) You must make sure there are enough employees for safe loading and unloading operations.

(4) You must make sure constant communications are maintained between the pilot and signal person.

(5) You must make sure the signal person is distinctly recognizable from other ground personnel.

HELICOPTER HAND SIGNALS

**MOVE
RIGHT**



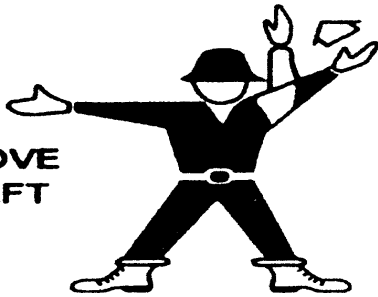
Left arm extended horizontally; right arm sweeps upward to position over.

**HOLD
HOVER**



The signal "Hold" is executed by placing arms over head with clenched fists.

**MOVE
LEFT**



Right arm extended horizontally; left sweeps upward to position over head.

TAKEOFF



Right hand behind back; left hand pointing up.

**MOVE
FORWARD**



Combination of arm and hand movement in a collecting motion pulling toward head.

LAND



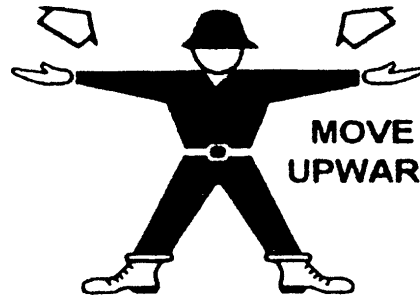
Arms crossed in front of body and pointing downward.

**MOVE
REARWARD**

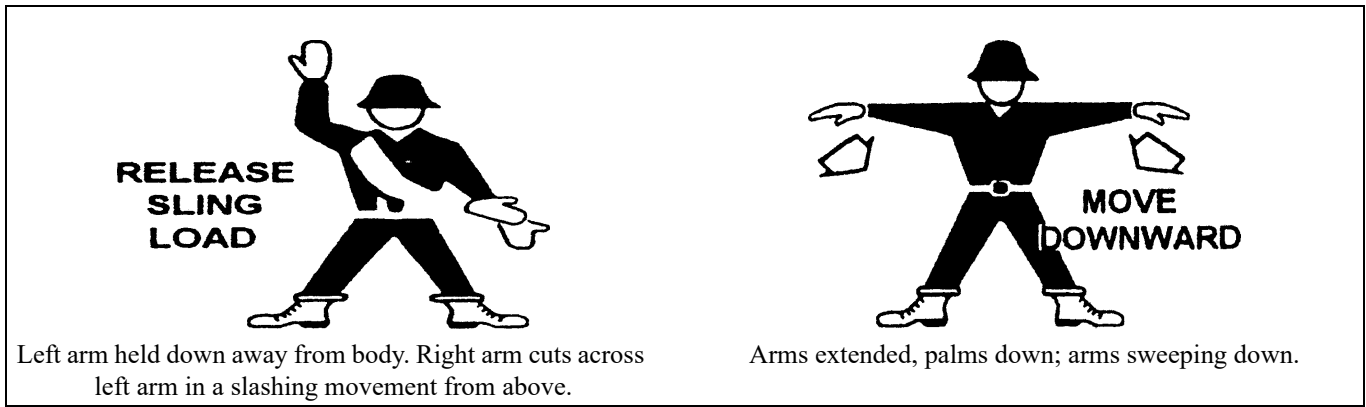


Hands above arm, palms out using a noticeable showing motion.

**MOVE
UPWARD**



Arms extended, palms up; arms sweeping up.



AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-100 Scope. This chapter applies to portable and fixed ladders, including job-made wooden ladders. For requirements related to mobile ladder stands or rolling ladders, please refer to WAC 296-874-20024 Make sure stairway-type ladders meet these requirements.

- EXEMPTION:** This chapter does not apply to:
1. Portable ladders used by the fire services for fire combat that are covered by safety standards for firefighters, chapter 296-305 WAC;
 2. Agriculture activities covered by safety standards for agriculture, chapter 296-307 WAC.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-876-60050 Extensions and grab bars. (1) You must make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

- Note:** For a parapet ladder, the access level is:
1. The roof if the parapet is cut to permit passage through it; or
 2. The top of the parapet if it is continuous and uncut.

- (2) You must make sure the extension of a through ladder above the access level or landing platform has:
- (a) Steps or rungs omitted from the extension; and
 - (b) Clearance between the side rails that is:
 - (i) Not less than twenty-four inches; or
 - (ii) Greater than thirty inches.

EXEMPTION: The maximum clearance between side rails of the extension may be increased to thirty-six inches if the ladder has a ladder safety device.

~~(3) You must make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.~~

~~(4))~~ You must make sure side-step ladders have the steps or rungs and the side rails continuous in the extension.

~~((5))~~ (4) You must make sure individual rung-step ladders are extended at least forty-two inches above the access level or landing platform by:

- (a) Continuing the rung spacings as horizontal grab bars; or

(b) Providing vertical grab bars that have the same lateral spacing as the vertical legs of the rungs.

EXEMPTION: Extensions are not required for individual rung-step ladders with access openings through a manhole or hatch.

~~((6))~~ (5) You must make sure grab bars:

- (a) Are at least four inches from the nearest permanent object in back of the grab bar, measured from the centerline of the grab bar; and
- (b) Do not extend beyond the rungs on the climbing side of the ladder.

AMENDATORY SECTION (Amending WSR 14-09-095, filed 4/22/14, effective 7/1/14)

WAC 296-878-15005 Select and use appropriate equipment. (1) You must make sure that all equipment provided to workers for window-cleaning operations is engineered, designed, and intended for use in commercial applications.

Note: Equipment that is designed or labeled for recreational use or rescue use only is prohibited for use in window-cleaning operations.

(2) You must make sure that the window-cleaning equipment is not altered unless it is specifically approved in writing by the original manufacturer or a registered professional engineer.

(3) You must provide manufacturer's instructions to employees for all window-cleaning equipment they will use.

Reference: Use Table 1 for other window-cleaning equipment requirements.

**Table 1
Other Window-Cleaning Equipment**

If you use:	Then follow all requirements in:
Portable ladders	((WAC 296-800-876)) Chapter 296-876 WAC, Ladders, portable and fixed
Supported scaffolds	Chapter 296-24 WAC, Scaffolds

If you use:	Then follow all requirements in:
Suspension ropes and lifelines Powered and manual hoists Suspended scaffold equipment	Chapter 296-24 WAC, Scaffolds
Single and multipoint adjustable suspension scaffolds	Chapter 296-24 WAC, Scaffolds
Powered platforms	Chapter 296-24 WAC, PART J-3, Powered platforms

WSR 16-23-146

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 22, 2016, 9:26 a.m., effective January 1, 2017]

Effective Date of Rule: January 1, 2017.

Purpose: The department is amending WAC 388-478-0015 Need standards for cash assistance, to update the basic need standards for cash assistance programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090.

Adopted under notice filed as WSR 16-19-066 on September 19, 2016.

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

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

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

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

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

Date Adopted: November 22, 2016.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-03-013, filed 1/8/16, effective 2/8/16)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with an obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$((1,308)) <u>1,348</u>
2	((1,656)) <u>1,706</u>
3	((2,044)) <u>2,106</u>
4	((2,412)) <u>2,485</u>
5	((2,780)) <u>2,864</u>
6	((3,148)) <u>3,243</u>
7	((3,638)) <u>3,749</u>
8	((4,027)) <u>4,149</u>
9	((4,415)) <u>4,549</u>
10 or more	((4,803)) <u>4,949</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$((665)) <u>645</u>
2	((842)) <u>816</u>
3	((1,039)) <u>1,008</u>
4	((1,226)) <u>1,189</u>
5	((1,413)) <u>1,371</u>
6	((1,600)) <u>1,552</u>
7	((1,849)) <u>1,794</u>
8	((2,047)) <u>1,986</u>
9	((2,244)) <u>2,177</u>
10 or more	((2,442)) <u>2,369</u>

WSR 16-23-153

PERMANENT RULES

GAMBLING COMMISSION

[Filed November 22, 2016, 2:43 p.m., effective December 23, 2016]

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

Purpose: The petitioner requested increased wagering limits for nonhouse-banked card games, such as poker. Specifically, the proposed change would:

- Allow Class F and house-banked cardrooms to assess players of nonhouse-banked card games a rake fee of up to ten percent of the pot with no limit. Currently, the rake cannot be more than \$5 per hand or ten percent of the total wagers for a hand, whichever is less; and
- Increase the maximum amount of a single wager for nonhouse-banked card games, not just Texas Hold 'Em, from \$100 to \$300 at Class F card rooms.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-080 and 230-15-135.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0201.

Adopted under notice filed as WSR 16-20-099 on October 4, 2016.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: November 10, 2016.

Michelle Rancour
Acting Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-09-033, filed 4/10/07, effective 1/1/08)

WAC 230-15-080 Authorized fees and authorized methods of collection. Card game licensees must collect only one type of card game fee at a table at any given time. The following are authorized types of fees, the card game licensees who may use those fee types, and the methods of collection:

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
<p>(1) Period of time -</p> <p>(a) Licensees must collect the fee at least once per hour at times the licensee chooses, for example, at thirty minute increments; and</p> <p>(b) Licensees must record all fees immediately after collection; or</p>	<p>Class A, B, C, E, F</p>	<p>Direct collection; or Chip rack - Only allowed if licensed for three or fewer tables; or Drop box.</p>	<p>Not more than ten dollars per hour, per player.</p>
<p>(2) Per hand played -</p> <p>(a) Players must place fees charged on a per-hand basis in a designated area of the table and dealers must collect them before dealing the first round of cards; and</p> <p>(b) After collecting the fees, dealers must deposit all chips or coins in either the drop box or chip rack; or</p>	<p>Class F and house-banked</p>	<p>Drop box; or Chip rack - Only allowed if licensed for three or fewer tables.</p>	<p>Not more than one dollar per hand, per player.</p>
<p>(3) Rake -</p> <p>(a) Dealers must collect fees charged on the amounts wagered during the play of the hand and place the fees in a designated area of the table; and</p>	<p>Class F and house-banked</p>	<p>Drop box; or Chip rack - Only allowed if licensed for three or fewer tables.</p>	<p>Not more than ((five dollars per hand or) ten percent of the total wagers for a hand(, whichever is less)).</p>

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
<p>(b) Once dealers accumulate the maximum fee for a hand, they must spread the chips or coins to allow players and the surveillance system to view the amount collected. After spreading the chips or coins, the dealer deposits them in either the drop box or chip rack.</p>			

AMENDATORY SECTION (Amending WSR 16-18-024, filed 8/26/16, effective 9/26/16)

WAC 230-15-135 Wagering limits for nonhouse-banked card games. Card room licensees must not exceed these wagering limits:

- (1) **Poker** -
 - (a) There must be no more than five betting rounds in any one game; and
 - (b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and
 - (c) The maximum amount of a single wager must not exceed forty dollars; however, class F ~~((may offer a maximum single wager not to exceed one hundred dollars))~~ and house-banked card game licensees may offer a single wager not to exceed three hundred dollars;
- (2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;
- (3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:
 - (a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and
 - (b) Be used as part of a player's wager;
- (4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

Statutory Authority for Adoption: RCW 88.16.035.
 Adopted under notice filed as WSR 16-20-109 on October 5, 2016.

Changes Other than Editing from Proposed to Adopted Version: The proposed version was not adopted. The current tariff will stay in effect until December 31, 2017.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 10, 2016.

Peggy Larson
 Executive Director

**WSR 16-23-162
 PERMANENT RULES
 BOARD OF**

PILOTAGE COMMISSIONERS

[Filed November 23, 2016, 10:19 a.m., effective January 1, 2017]

Effective Date of Rule: January 1, 2017.

Purpose: To establish a 2017 annual tariff for pilotage services in the Puget Sound pilotage district.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-300.

AMENDATORY SECTION (Amending WSR 16-11-068, filed 5/16/16, effective 7/1/16)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours ~~((July 1, 2015))~~ January 1, 2017, through 2400 hours December 31, ~~((2016))~~ 2017.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	
Per LOA rate schedule in this section.	
Pilot boat fee:	\$348.00
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Towing charge - Dead ship:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Compass Adjustment	\$359.00
Radio Direction Finder Calibration	\$359.00
Launching Vessels	\$540.00
Trial Trips, 6 hours or less (minimum \$1,014.00)	\$169.00 per hour
Trial Trips, over 6 hours (two pilots)	\$338.00 per hour
Shilshole Bay - Salmon Bay	\$211.00
Salmon Bay - Lake Union	\$164.00
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$211.00
Cancellation Charge	LOA Zone I
Cancellation Charge - Port Angeles:	LOA Zone II

(When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)

Waterway and Bridge Charges:

Ships up to 90' beam:

A charge of \$266.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$127.00 per bridge.

Ships 90' beam and/or over:

A charge of \$361.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$251.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus \$274.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof. The assessment of the standby charge shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$274.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival - Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$274.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$0.0084 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$0.0814 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$0.0974 per gross ton.

Notwithstanding the above tonnage charges, there shall be a minimum tonnage charge of \$500.00 applied to:

- (1) All LOA Zone I assignments other than assignments of an additional pilot(s) on ship movements involving more than one pilot jointly piloting the vessel; and
- (2) All LOA Zone II and greater assignments.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	\$195.00
Bangor	190.00
Bellingham	225.00
Bremerton	167.50
Cherry Point	260.00
Dupont	120.00
Edmonds	42.50
Everett	72.50
Ferndale	247.50
Manchester	162.50

Mukilteo	65.00
Olympia	155.00
Point Wells	42.50
Port Gamble	230.00
Port Townsend (Indian Island)	277.50
Seattle	18.75
Tacoma	87.50

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile.

Payment Terms and Delinquent Payment Charge:

1 1/2% per month after 30 days from first billing.

Nonuse of Pilots:

Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage charges on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

British Columbia Direct Transit Charge:

In the event that a pilot consents to board or disembark a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Direct Transit Charge	\$2,107.00
Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.	\$283.00 per hour
Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.	\$283.00 per hour

Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses. \$525.00

Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia. \$514.00

Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range. \$649.00

Training Surcharge:

On January 1, 2011, a surcharge of \$15.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA (Length Overall)	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
UP to 449	263	381	650	968	1,304	1,692
450 - 459	274	388	653	983	1,325	1,700
460 - 469	276	392	665	999	1,343	1,708
470 - 479	285	404	672	1,020	1,347	1,711
480 - 489	294	410	675	1,038	1,355	1,719
490 - 499	298	416	685	1,057	1,371	1,728
500 - 509	313	423	695	1,068	1,383	1,738
510 - 519	315	431	702	1,085	1,398	1,744
520 - 529	319	447	712	1,090	1,410	1,758
530 - 539	329	452	721	1,102	1,432	1,778
540 - 549	334	458	738	1,114	1,454	1,795
550 - 559	341	474	742	1,130	1,466	1,812
560 - 569	353	493	757	1,141	1,479	1,828
570 - 579	361	496	760	1,146	1,495	1,841
580 - 589	376	505	778	1,154	1,503	1,859
590 - 599	393	516	782	1,160	1,526	1,882
600 - 609	408	532	794	1,164	1,544	1,890
610 - 619	431	537	807	1,169	1,559	1,907
620 - 629	447	543	814	1,183	1,577	1,929
630 - 639	468	552	824	1,186	1,591	1,946
640 - 649	486	566	832	1,188	1,604	1,960
650 - 659	520	575	847	1,197	1,624	1,981
660 - 669	530	582	854	1,205	1,642	1,996
670 - 679	550	597	863	1,226	1,660	2,009
680 - 689	557	607	874	1,237	1,674	2,028
690 - 699	574	616	888	1,258	1,692	2,071
700 - 719	599	637	904	1,275	1,725	2,093
720 - 739	634	653	927	1,292	1,758	2,128
740 - 759	659	685	945	1,304	1,795	2,167
760 - 779	685	707	968	1,325	1,828	2,194
780 - 799	719	738	983	1,343	1,859	2,234
800 - 819	748	760	1,002	1,350	1,890	2,268

LOA (Length Overall)	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
820 - 839	771	788	1,025	1,371	1,929	2,293
840 - 859	804	820	1,046	1,387	1,958	2,333
860 - 879	834	847	1,064	1,423	1,996	2,367
880 - 899	863	871	1,085	1,455	2,028	2,402
900 - 919	889	900	1,103	1,494	2,071	2,434
920 - 939	917	927	1,130	1,526	2,091	2,468
940 - 959	950	952	1,147	1,559	2,128	2,498
960 - 979	971	980	1,167	1,591	2,167	2,535
980 - 999	1,003	1,002	1,187	1,624	2,194	2,568
1000 - 1019	1,065	1,067	1,240	1,710	2,299	2,678
1020 - 1039	1,094	1,098	1,279	1,758	2,368	2,757
1040 - 1059	1,127	1,125	1,316	1,812	2,435	2,838
1060 - 1079	1,161	1,165	1,355	1,866	2,511	2,922
1080 - 1099	1,196	1,197	1,394	1,920	2,585	3,011
1100 - 1119	1,230	1,234	1,437	1,980	2,662	3,102
1120 - 1139	1,268	1,274	1,481	2,037	2,742	3,194
1140 - 1159	1,304	1,310	1,523	2,098	2,825	3,291
1160 - 1179	1,343	1,347	1,571	2,161	2,909	3,388
1180 - 1199	1,384	1,388	1,616	2,226	2,997	3,491
1200 - 1219	1,427	1,430	1,664	2,293	3,087	3,593
1220 - 1239	1,467	1,473	1,713	2,362	3,177	3,701
1240 - 1259	1,511	1,516	1,763	2,432	3,274	3,811
1260 - 1279	1,555	1,561	1,817	2,505	3,373	3,925
1280 - 1299	1,602	1,609	1,872	2,580	3,471	4,044
1300 - 1319	1,651	1,655	1,927	2,657	3,576	4,164
1320 - 1339	1,701	1,705	1,986	2,736	3,682	4,290
1340 - 1359	1,749	1,756	2,045	2,817	3,792	4,419
1360 - 1379	1,803	1,807	2,106	2,903	3,905	4,549
1380 - 1399	1,855	1,861	2,171	2,989	4,022	4,687
1400 - 1419	1,912	1,918	2,233	3,077	4,142	4,826
1420 - 1439	1,968	1,976	2,301	3,171	4,268	4,971
1440 - 1459	2,029	2,035	2,371	3,265	4,395	5,120
1460 - 1479	2,086	2,094	2,440	3,362	4,527	5,270
1480 - 1499	2,150	2,157	2,512	3,462	4,661	5,429
1500 - Over	2,215	2,222	2,587	3,568	4,800	5,591

WSR 16-23-163
PERMANENT RULES
OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2016-14—Filed November 23,
2016, 10:27 a.m., effective December 24, 2016]

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

Purpose: The purpose of the rule is to adopt the valuation manual for principle based reserving for life insurance companies.

Statutory Authority for Adoption: RCW 48.02.060, 48.74.090, and 48.74.100(5).

Other Authority: RCW 48.74.100.

Adopted under notice filed as WSR 16-21-067 on October 17, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: November 23, 2016.

Mike Kreidler
Insurance Commissioner

**SUBCHAPTER A: ADOPTION OF VALUATION
MANUAL**

NEW SECTION

WAC 284-74-600 Authority, purpose, and definition.

(1) The purpose of this subchapter is to formally adopt the valuation manual adopted by the National Association of Insurance Commissioners as specified in chapter 48.74 RCW.

(2) "Valuation manual" has the meaning set forth in RCW 48.74.015.

NEW SECTION

WAC 284-74-610 Determination of operative date of valuation manual. (1) The insurance commissioner hereby makes the following determination:

(a) The valuation manual was adopted by the National Association of Insurance Commissioners on December 2, 2012, by an affirmative vote of forty-three members, representing over three-fourths of the members voting.

(b) The standard valuation law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and condi-

tions, has been enacted by states representing over eighty-five percent of the direct premiums written as reported in the following annual statements submitted in 2008: Life, accident and health annual statements; health annual statements; or fraternal annual statements.

(c) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and conditions, has been enacted by forty-six states.

(2) Therefore, the operative date of the valuation manual for this state is January 1, 2017.

WSR 16-23-168
PERMANENT RULES
OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2016-17—Filed November 23,
2016, 11:55 a.m., effective January 1, 2017]

Effective Date of Rule: January 1, 2017.

Purpose: HB 2326, passed in 2016, requires that by January 1, 2017, the regulatory authority over independent review organizations (IRO) be transferred from department of health (DOH) to the office of the insurance commissioner (OIC). The legislation requires that rules be adopted providing procedure and criteria for certifying IROs by taking into consideration rules adopted by DOH that regulate IROs. The rules adopted must require IROs to report decisions and associated information directly to OIC via the commissioner's online data base. As part of this process, we've created a new chapter, chapter 284-43A WAC, and moved IRO related chapters from chapter 284-43 WAC and rule language from DOH into the new chapter.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-43-3210 and 284-43-4060; and amending WAC 284-43-3010, 284-43-4000, 284-43-4040, and 284-43-5900.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.535, and 48.43.537.

Adopted under notice filed as WSR 16-21-068 on October 17, 2016.

A final cost-benefit analysis is available by contacting Stacy Middleton, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-9651, fax (360) 586-3109, e-mail rules coordinator@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 16, Amended 4, Repealed 2.

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

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

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

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

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 16, Amended 4, Repealed 2.

Date Adopted: November 23, 2016.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-3010 Definitions. These definitions apply to the sections in this subchapter, WAC 284-43-3030 through ~~((284-43-3210)) 284-43-3190 and 284-43A-140:~~

"Adverse benefit determination" has the same meaning as defined in RCW 48.43.005 and WAC 284-43-0160.

"Appellant" means an applicant or a person covered as an enrollee, subscriber, policy holder, participant, or beneficiary of an individual or group health plan, and when designated, their representative. Consistent with the requirements of WAC 284-43-2000, providers seeking expedited review of an adverse benefit determination on behalf of an appellant may act as the appellant's representative even if the appellant has not formally notified the health plan or carrier of the designation.

"External appeal or review" means the request by an appellant for an independent review organization to determine whether the carrier or health plan's internal appeal decisions are correct.

"Internal appeal or review" means an appellant's request for a carrier or health plan to review and reconsider an adverse benefit determination.

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-4000 Application of subchapter F. Subchapter F applies to grandfathered health plans. For any grandfathered health plan as defined in RCW 48.43.005, a carrier may comply with RCW 48.43.530 and 48.43.535 by using an appeal process that conforms to the procedures and standards set forth in WAC 284-43-4020 through ~~((284-43-4060)) 284-43-4040 and 284-43A-150.~~

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-4040 Procedures for review and appeal of adverse determinations. (1) An enrollee or the enrollee's representative, including the treating provider (regardless of whether the provider is affiliated with the carrier) acting on behalf of the enrollee may appeal an adverse determination in writing. The carrier must reconsider the adverse determination and notify the enrollee of its decision within fourteen days of receipt of the appeal unless the carrier notifies the enrollee that an extension is necessary to complete the appeal; however, the extension cannot delay the decision beyond thirty days of the request for appeal, without the informed, written consent of the enrollee.

(2) Whenever a health carrier makes an adverse determination and delay would jeopardize the enrollee's life or materially jeopardize the enrollee's health, the carrier shall expedite and process either a written or an oral appeal and issue a decision no later than seventy-two hours after receipt of the appeal. If the treating health care provider determines that delay could jeopardize the enrollee's health or ability to regain maximum function, the carrier shall presume the need for expeditious review, including the need for an expeditious determination in any independent review under WAC ~~((284-43-4060)) 284-43-4040 and 284-43A-150.~~

(3) A carrier may not take or threaten to take any punitive action against a provider acting on behalf or in support of an enrollee appealing an adverse determination.

(4) Appeals of adverse determinations shall be evaluated by health care providers who were not involved in the initial decision and who have appropriate expertise in the field of medicine that encompasses the enrollee's condition or disease.

(5) All appeals must include a review of all relevant information submitted by the enrollee or a provider acting on behalf of the enrollee.

(6) The carrier shall issue to affected parties and to any provider acting on behalf of the enrollee a written notification of the adverse determination that includes the actual reasons for the determination, the instructions for obtaining an appeal of the carrier's decision, a written statement of the clinical rationale for the decision, and instructions for obtaining the clinical review criteria used to make the determination.

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-5900 Effective date. The effective date of WAC 284-43-0160, 284-170-200, 284-170-360, 284-43-2000, 284-43-4020, 284-43-4040, ~~((284-43-4060, and)) 284-43-5130, and 284-43A-150~~ is July 1, 2001.

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-5900 Effective date. The effective date of WAC 284-43-0160, 284-170-200, 284-170-360, 284-43-2000, 284-43-4020, 284-43-4040, ~~((284-43-4060, and)) 284-43-5130, and 284-43A-150~~ is July 1, 2001.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-43-3210 External review of adverse benefit determinations.

WAC 284-43-4060 Independent review of adverse determinations.

Chapter 284-43A WAC

INDEPENDENT REVIEW ORGANIZATIONS (IROs)

SUBCHAPTER A

GENERAL PROVISIONS

NEW SECTION

WAC 284-43A-001 Purpose and scope. (1) Purpose. These rules are adopted by the Washington state office of the insurance commissioner to implement the provisions of RCW 48.43.535 regarding the certification and requirements of independent review organizations (IROs) and requirements for carriers referring review of adverse benefit deter-

minations to IROs. Certified IROs are qualified to receive referrals from the commissioner or designee under RCW 48.43.535 to make binding determinations related to health care coverage and payment disputes between health insurance carriers and their enrollees.

(2) Other applicable rules. Independent review is also subject to rules of the commissioner implementing RCW 48.43.535.

(3) Applicability. These rules apply to independent review cases originating in Washington state under RCW 48.43.535, and to independent review organizations conducting these reviews.

NEW SECTION

WAC 284-43A-010 Definitions. The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

(1) "Adverse benefit determination" has the same meaning as defined in RCW 48.43.005 and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Appellant" means an applicant or a person covered as an enrollee, subscriber, policyholder, participant, or beneficiary of an individual or group health plan, and when designated, their representative, as defined in WAC 284-43-3010. Consistent with the requirements of WAC 284-43-3170, providers seeking expedited review of an adverse benefit determination on behalf of an appellant may act as the appellant's representative even if the appellant has not formally notified the health plan or carrier of the designation.

(3) "Applicant" means a person or entity seeking to become a Washington certified independent review organization (IRO).

(4) "Attending provider" includes "treating provider" or "ordering provider" as used in WAC 284-43-4040 and 284-43-4060.

(5) "Carrier" or "health carrier" has the same meaning in this chapter as in WAC 284-43-0160(14).

(6) "Case" means a dispute relating to a carrier's decision to deny, modify, reduce, or terminate coverage of or payment for health care service for an enrollee, which has been referred to a specific IRO by the insurance commissioner under RCW 48.43.535.

(7) "Clinical peer" means a physician or other health professional who holds an unrestricted license or certification and is in the same or similar specialty as typically manages the medical condition, procedures, or treatment under review. Generally, as a peer in a similar specialty, the individual must be in the same profession, i.e., the same licensure category, as the attending provider. In a profession that has organized, board-certified specialties, a clinical peer generally will be in the same formal specialty.

(8) "Clinical reviewer" means a medical reviewer, as defined in this section.

(9) "Conflict of interest" means violation of any provision of WAC 284-43A-050 including, but not limited to, material familial, professional and financial affiliations.

(10) "Contract specialist" means a reviewer who deals with interpretation of health plan coverage provisions. If a clinical reviewer is also interpreting health plan coverage and contract provisions, that reviewer shall have the qualifications required of a contract specialist and clinical reviewer.

(11) "Commissioner" means the Washington state insurance commissioner.

(12) "Enrollee" or "covered person" means an individual covered by a health plan including a subscriber, a policyholder, or beneficiary of a group plan, as defined in WAC 284-43-0160(5); means an "appellant" as defined in WAC 284-43-3010; and also means a person lawfully acting on behalf of the enrollee including, but not limited to, a parent or guardian.

(13) "Evidence-based standard" means the conscientious, explicit, and judicious use of the current best evidence based on the overall systematic review of the research in making decisions about the care of individual patients.

(14) "Health care provider" or "provider" as used in WAC 284-43-0160 (13)(a) and (b), means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(15) "Independent review" means the process of review and determination of a case referred to an IRO under RCW 48.43.535.

(16) "Independent review organization" or "IRO" means an entity certified by the commissioner under this chapter.

(17) "Material familial affiliation" means any relationship as a spouse, child, parent, sibling, spouse's parent, or child's spouse.

(18) "Material professional affiliation" includes, but is not limited to, any provider-patient relationship, any partnership or employment relationship, or a shareholder or similar ownership interest in a professional corporation.

(19) "Material financial affiliation" means any financial interest including employment, contract or consultation which generates more than five percent of total annual revenue or total annual income of an IRO or an individual director, officer, executive or reviewer of the IRO. This includes a consulting relationship with a manufacturer regarding technology or research support for a specific product.

(20) "Medical reviewer" means a physician or other health care provider who is assigned to an external review case by a certified IRO, consistent with this chapter.

(21) "Medical, scientific, and cost-effectiveness evidence" means published evidence on results of clinical practice of any health profession which complies with one or more of the following requirements:

(a) Peer-reviewed scientific studies published in or accepted for publication by medical and mental health journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(b) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institute of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base Health Services Technology Assessment Research (HSTAR);

(c) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861 (t)(2) of the federal Social Security Act;

(d) The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information;

(e) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the Federal Agency for Healthcare Research and Quality, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Centers for Medicare and Medicaid Services, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services;

(f) Clinical practice guidelines that meet Institute of Medicine criteria; or

(g) In conjunction with other evidence, peer-reviewed abstracts accepted for presentation at major scientific or clinical meetings.

(22) "Referral" means receipt by an IRO of notification from the insurance commissioner or designee that a case has been assigned to that IRO under provisions of RCW 48.43.535.

(23) "Reviewer" or "expert reviewer" means a clinical reviewer or a contract specialist, as defined in this section.

SUBCHAPTER B

CERTIFICATION AND REQUIREMENTS FOR INDEPENDENT REVIEW ORGANIZATIONS (IROs)

NEW SECTION

WAC 284-43A-020 General requirements for certification. In order to qualify for certification, an IRO shall:

(1) Submit an application for certification to the commissioner as described in RCW 48.43.537.

(2) Hold a current accreditation from a nationally recognized private accrediting organization acceptable to the federal Department of Health and Human Services or Department of Labor for the federal external review process.

(3) Demonstrate expertise and a history of reviewing health care in terms of medical necessity, appropriateness, and application of other health plan coverage and contract provisions.

(4) Demonstrate the ability to handle a full range of review cases, including contract provisions, occurring in Washington state. Certified IROs may contract with more specialized review organizations; however, the certified IRO shall ensure that each review conducted meets all the requirements of this chapter.

(5) Demonstrate capability to review administrative and contractual coverage issues, as well as medical necessity and effectiveness, and the appropriateness of experimental and investigational treatments.

(6) Comply with all conflict of interest provisions in WAC 284-43A-050.

(7) Maintain and assign qualified expert reviewers in compliance with WAC 284-43A-060.

(8) Conduct reviews, reach determinations and document determinations consistent with WAC 284-43A-040 through 284-43A-090.

(9) Maintain administrative processes and capabilities in compliance with WAC 284-43A-040.

NEW SECTION

WAC 284-43A-030 Application for certification as an IRO. (1) To be certified as an IRO under this chapter, an organization must make an application to the commissioner upon a form to be furnished by the commissioner as required under RCW 48.43.537 and submitted using the commissioner's online service. The application must include or be accompanied by the following:

(a) An attestation on the form required by the commissioner, signed by a company officer, certifying that all requirements within RCW 48.43.537 and this chapter will be met;

(b) Evidence of current accreditation from a nationally recognized private accrediting organization acceptable to the federal Department of Health and Human Services or Department of Labor for the federal external review process;

(i) Applicants shall authorize release of information from primary sources, including full reports of site visits, inspections, and audits; and

(ii) The commissioner may require the applicant to indicate which documents demonstrate compliance with specific Washington state certification requirements under this chapter.

(c) Other documentation including, but not limited to, legal and financial information, policies and procedures, and data that are pertinent to requirements of this chapter; and

(d) Any other pertinent information required by the commissioner.

(2) Commissioner investigation and verification activities regarding the applicant may include, but are not limited to:

- (a) Review of application and filings for completeness and compliance with standards;
- (b) Primary-source verification with accreditation or regulatory bodies of compliance with requirements which are used to demonstrate compliance with certain standards in this chapter;
- (c) Other means of determining regulatory and accreditation histories; and
- (d) Exercising any power of the commissioner under WAC 284-43A-110.

NEW SECTION

WAC 284-43A-040 Administrative processes and capabilities of IROs. (1) An IRO shall maintain written policies and procedures covering all aspects of review.

(2) An IRO shall ensure the confidentiality of medical records and other personal health information received for use in independent reviews, in accordance with applicable federal and state laws.

(3) An IRO shall have a quality assurance program that ensures the timeliness, quality of review, and communication of determinations to enrollees and carriers. The quality assurance program must ensure the qualifications, impartiality, and freedom from conflict of interest of the organization, its staff, and expert reviewers.

(a) The quality assurance program must include a written plan addressing scope and objectives, program organization, monitoring and oversight mechanisms, and evaluation and organizational improvement of IRO activities.

(b) Quality of reviews includes use of appropriate methods to match the case, confidentiality, and systematic evaluation of complaints for patterns or trends. Complaints must be recorded, including the nature of the complaint and the resolution. The commissioner may examine the complaint records.

(c) Organizational improvement efforts must include the implementation of action plans to improve or correct identified problems, and communication of the results of action plans to staff and reviewers.

(4) An IRO shall maintain case logs and case files with full documentation of referrals, reviewers, questions posed, information considered (including sources of the information and citations of studies or criteria), determinations and their rationale, communication with parties in the dispute including notices given, and key dates in the process, for at least six years following the review.

(5) An IRO shall maintain a training program for staff and expert reviewers, addressing at least:

- (a) Confidentiality;
- (b) Neutrality and conflict of interest;
- (c) Appropriate conduct of reviews;
- (d) Documentation of evidence for determination; and

(e) In the case of contract specialists, principles of health contract law and any provisions of Washington state law determined to be essential.

(6) An IRO shall maintain business hours, methods of contact (including by telephone), procedures for after-hours requests, and other relevant procedures to ensure timely availability to conduct expedited as well as regular reviews.

(7) An IRO shall not disclose reviewers' identities. The commissioner will not require reviewers' identities as part of the certification application process, but may examine identified information about reviewers as part of enforcement activities.

(8) An IRO shall promptly report any attempt at interference by any party, including a state agency, to the commissioner.

(9) An IRO shall have a medical director who holds a current unrestricted license as a medical doctor or osteopathic physician and has had experience in direct patient care. The medical director shall provide guidance for clinical aspects of the independent review process and oversee the IRO's quality assurance and credentialing programs.

NEW SECTION

WAC 284-43A-050 Conflict of interest. (1) An IRO:

(a) Must not be a subsidiary of, or in any way owned or controlled by, a carrier or an association of health care providers or carriers;

(b) Shall provide information to the commissioner on its own organizational affiliations and potential conflicts of interest at the time of application and when material changes occur;

(c) Shall immediately turn down a case referred by the commissioner if accepting it would constitute an organizational conflict of interest; and

(d) Shall ensure that reviewers are free from any actual or potential conflict of interest in assigned cases.

(2) An IRO, as well as its reviewers, must not have any material familial, professional, or financial affiliation, as defined in WAC 284-43A-010, with the health carrier, enrollee, enrollee's provider, that provider's medical or practice group, the facility at which the service would be provided, or the developer or manufacturer of a drug or device under review. An affiliation with any director, officer or executive of an IRO must be considered to be an affiliation with the IRO.

(3) The following do not constitute violations of this section:

(a) Staff affiliation with an academic medical center or National Cancer Institute-designated clinical cancer research center;

(b) Staff privileges at a health care facility;

(c) Maintaining a provider contract with a carrier which provides no more than five percent of the provider's or clinical group's annual revenue; or

(d) An IRO's receipt of a carrier's payment for independent re-reviews assigned by the commissioner under RCW 48.43.535.

(4) Notwithstanding the provisions of subsection (3) of this section, a potential reviewer must be considered to have a conflict of interest with regard to a facility or health plan, regardless of revenue from that source, if the potential reviewer is a member of a standing committee of: The facility, the health plan, or a provider network that contracts with the health plan.

(5) A conflict of interest may be waived only if both the enrollee and the health plan agree in writing after receiving full disclosure of the conflict, and only if:

- (a) The conflict involves a reviewer, and no alternate reviewer with necessary special expertise is available; or
- (b) The conflict involves an IRO and the commissioner determines that seeking a waiver of conflict is preferable to reassigning the review to a different IRO.

NEW SECTION

WAC 284-43A-060 Expert reviewers. (1) Each IRO shall maintain an adequate number and range of qualified expert reviewers in order to:

(a) Make determinations regarding the full range of independent review cases occurring in Washington state under RCW 48.43.535; and

(b) Meet timelines specified in WAC 284-43A-070(3) including those for expedited review.

(2) All reviewers must be health care providers with the exception of contract specialists.

(3) IROs shall maintain policies and practices that assure that all clinical reviewers:

(a) Hold a current, unrestricted license, certification, or registration in Washington state, or current, unrestricted credentials from another state with substantially comparable requirements, as determined by the department of health and outlined in the current edition of the department of health publication, *Health Care Professional Credentialing Requirements*;

(b) Have at least five years of recent clinical experience;

(c) Are board-certified in the case of a medical doctor, a doctor of osteopathy, a podiatrist, or a member of another profession in which board certification exists as determined by the department of health; and

(d) Have the ability to apply scientific standards of evidence in judging research literature pertinent to review issues, as demonstrated through relevant training or professional experience.

(4) Contract specialists must be knowledgeable in health insurance contract law, as evidenced by training and experience, but do not need to be an attorney or have any state credential.

(5) Assignment of appropriate reviewers to a case.

(a) An IRO shall assign one or more expert reviewers to each case, as necessary to meet requirements of this subsection.

(b) Any reviewer assigned to a case shall comply with the conflict of interest provisions in WAC 284-43A-050.

(c) The IRO shall assign one or more clinical reviewers to each case. All clinical reviewers assigned to a case shall each meet the following requirements:

(i) A clinical peer as defined in WAC 284-43A-010;

(ii) An expert in the treatment of the enrollee's medical condition that is the subject of the external review;

(iii) Knowledgeable about the recommended health care service or treatment through five years of recent or current actual clinical experience treating patients with the same or similar medical condition of the enrollee. Exceptions may be made to this requirement in unusual situations when the only

experts available for a highly specialized review are in academic or research life and do not meet the clinical experience requirement; and

(iv) Have the ability to evaluate alternatives to the proposed treatment.

(d) If contract interpretation issues must be addressed, a contract specialist must be assigned to the review.

(e) Each IRO shall have a policy specifying the number and qualifications of reviewers to be assigned to each case. The number of expert reviewers should be dictated by what it takes to meet the requirements of this subsection.

(i) The number of expert reviewers should reflect the complexity of the case, the goal of avoiding unnecessary cost, and the need to avoid tie votes.

(ii) The IRO may consider, but shall not be bound by, recommendations regarding complexity from the carrier or attending provider.

(iii) Special attention should be given to situations such as review of experimental and investigational treatments that may benefit from an expanded panel.

NEW SECTION

WAC 284-43A-070 Independent review process. (1) Information for review.

(a) IROs shall, as necessary, request, accept, and consider the following information as relevant to a case:

(i) Information that the carrier is required to submit to the IRO under WAC 284-43A-140, including information identified in that section that is initially missing or incomplete as submitted by the carrier.

(ii) Other medical, scientific, and cost-effectiveness evidence which is relevant to the case. For the purposes of this section, medical, scientific, and cost-effectiveness evidence has the meaning defined in WAC 284-43A-010.

(b) After referral of a case, an IRO shall accept additional information from the enrollee, the carrier, or a provider acting on behalf of the enrollee or at the enrollee's request, provided the information is submitted within five business days of the referral or, in the case of an expedited referral, within twenty-four hours. The additional information must be related to the case and relevant to statutory criteria.

(c) The IRO shall forward this information to the carrier within one business day of receipt of the information.

(2) Completion of reviews. Once the commissioner or designee refers a review, the IRO shall proceed to final determination unless requested otherwise by both the carrier and the enrollee or the carrier notifies the IRO it has reversed its adverse benefit determination.

(3) Time frames for reviews.

(a) An IRO shall make its determination within the following time limits:

(i) If the review is not expedited, within fifteen days after receiving necessary information, or within twenty days after receiving the referral, whichever is earlier. In exceptional circumstances where information is incomplete, the determination may be delayed until no later than twenty-five days after receiving the referral.

(ii) If the review is expedited, as defined in WAC 284-43-3170, within seventy-two hours after receiving the refer-

ral. If information on whether a referral is expedited is not provided to the IRO, the IRO may presume that it is not an expedited review, but the IRO has the option to seek clarification from the commissioner or designee.

(b) An IRO shall provide notice to enrollees and the carrier of the result and basis for the determination, consistent with subsection (5) of this section, within two business days of making a determination in regular cases and immediately in expedited cases.

(c) As used in this subsection, a day is a calendar day, except that if the period ends on a weekend or an official Washington state holiday, the time limit is extended to the next business day. A business day is any day other than Saturday, Sunday or an official Washington state holiday.

(4) Decision-making procedures.

(a) The independent review process is intended to be neutral and independent of influence by any affected party or by state government. The commissioner may conduct investigations under the provisions of this chapter but the commissioner has no involvement in the disposition of specific cases.

(b) Independent review is a paper review process. These rules do not establish a right to in-person participation or attendance by the enrollee, the health plan, or the attending provider nor to reconsideration of IRO determinations.

(c) An IRO shall present cases to reviewers in a way that maximizes the likelihood of a clear, unambiguous determination. This may involve stating or restating the questions for review in a clear and precise manner that encourages yes or no answers.

(d) If more than one reviewer is used, the IRO shall:

(i) Provide an opportunity for the reviewers to exchange ideas and opinions about the case with one another, if requested by a reviewer. This must be done in a manner that avoids pressure on reviewers to take a position with which they do not agree and preserves a dissenting reviewer's opportunity to document the rationale for dissent in the case file.

(ii) Accept the majority decision of the clinical reviewers in determining clinical issues.

(e) When a case requires an interpretation regarding the application of health plan coverage provisions, that determination must be made by a reviewer or reviewers who are qualified as contract specialists.

(f) An IRO may uphold an adverse benefit determination if the patient or any provider refuses to provide relevant medical records that are available and have been requested with reasonable opportunity to respond. An IRO may overturn an adverse benefit determination if the carrier refuses to provide relevant medical records that are available and have been requested with reasonable opportunity to respond.

(g) If reviewers are deadlocked, the IRO may add another reviewer if time allows.

(h) If all pertinent information has been disclosed and reviewers are unable to make a determination, the IRO shall decide in favor of the enrollee.

(5) Notification and documentation of determinations. An IRO shall notify the enrollee and the carrier of the result and rationale for the determination, including its clinical basis unless the decision is wholly based on application of

coverage provisions, within the time frame in subsection (3)(b) of this section.

(a) Documentation of the basis for the determination shall include references to supporting evidence, and if applicable, the rationale for any interpretation regarding the application of health plan coverage provisions.

(b) If the determination overrides the health plan's medical necessity or appropriateness standards, the rationale shall document why the health plan's standards are unreasonable or inconsistent with sound, evidence-based medical practice.

(c) The written report shall include the qualifications of reviewers but shall not disclose the identity of the reviewers.

(d) Notification of the determination must be provided initially by telephone, e-mail, or facsimile, followed by a written report by mail. In the case of expedited reviews the initial notification must be immediate and by telephone.

(6) Each IRO must submit final decision determination information to the commissioner's online service within three business days of the IRO's final decision. Data elements and procedures for submission are located on the commissioner's web site.

NEW SECTION

WAC 284-43A-080 Criteria and considerations for independent review determinations. (1) General criteria and considerations.

(a) The determination must be consistent with the standards in RCW 48.43.537, 48.43.535, and chapter 284-43A WAC.

(b) The expert reviewers from a certified IRO will make determinations regarding the medical necessity or appropriateness of, and the application of health plan coverage provisions to, health care services for an enrollee.

(c) The IRO shall ensure that determinations are consistent with the scope of covered benefits as outlined in the medical coverage agreement.

(i) Clinical reviewers may override the health plan's medical necessity or appropriateness standards only if the standards are determined upon review to be unreasonable or inconsistent with sound, evidence-based medical practice, or experimental or investigational treatment protocols.

(ii) Reviewers may make determinations about the application of general health plan coverage provisions to specific issues concerning health care services for an enrollee. For example, whether a specific service is excluded by more general benefit exclusion language may require independent interpretation.

(2) Medical necessity and appropriateness - Criteria and considerations. Only clinical reviewers may determine whether a service, which is the subject of an adverse decision, is medically necessary and appropriate. These determinations must be based upon their expert clinical judgment, after consideration of relevant medical, scientific, and cost-effectiveness evidence, and medical standards of practice in Washington state.

(a) Medical standards of practice include the standards appropriately applied to physicians or other health care providers, as pertinent to the case.

(b) In considering medical standards of practice within Washington state:

(i) Clinical reviewers may use national standards of care, absent evidence presented by the health plan or enrollee that the Washington state standard of care is different.

(ii) A health care service or treatment should be considered part of the Washington state standard of practice if reviewers believe that failure to provide it would be inconsistent with that degree of care, skill and learning expected of a reasonably prudent health care provider acting in the same or similar circumstances.

(c) Medical necessity will be a factor in most cases referred to an IRO, but not necessarily in all. See WAC 284-43A-080.

(3) Health plan coverage provisions - Criteria and considerations. The following requirements must be observed when a review requires making determinations about the application of health plan coverage provisions to issues concerning health care services for an enrollee.

(a) These determinations must be made by one or more contract specialists meeting the requirements of WAC 284-43A-060(4), except that a clinical determination of medical necessity or appropriateness, by itself, is not an interpretation of the scope of covered benefits and does not require a contract specialist.

(b) If the full health plan coverage agreement has not already been provided by the carrier under WAC 284-43A-140, the IRO shall request additional provisions from the health plan coverage agreement in effect during the relevant period of the enrollee's coverage, as necessary to have an adequate context for determinations.

(c) In general, the IRO and its contract specialists may assume that the contractual health plan coverage provisions themselves are consistent with the Washington Insurance Code (Title 48 RCW), absent information to the contrary. Primary responsibility for determining consistency with the insurance code, when at issue, rests with the commissioner.

(4) No provision of this chapter should be interpreted to establish a standard of medical care, or to create or eliminate any cause of action.

NEW SECTION

WAC 284-43A-090 Additional requirements for experimental or investigational treatment reviews. (1) In addition to the qualifications listed in WAC 284-43A-060 (3) and (5), at least part of the clinical reviewers' relevant, recent clinical experience must have been obtained in the past three years.

(2) Each clinical reviewer shall consider the following information, if appropriate and available, in reaching an opinion:

(a) The enrollee's pertinent medical records;

(b) The attending physician or health care provider's recommendation;

(c) Consulting reports from appropriate health care providers and other documents submitted by the carrier, enrollee, or enrollee's authorized representative, or the enrollee's treating physician or health care provider; and

(d) Whether:

(i) The terms of coverage under the enrollee's health benefit plan would have covered the treatment had the carrier not determined that the treatment was experimental or investigational;

(ii) The recommended or requested health care service or treatment has been approved by the federal Food and Drug Administration, if applicable, for the condition; or

(iii) Medical or scientific evidence or evidence-based standards demonstrate that the recommended or requested health care service or treatment is more likely than any available standard health care service or treatment to be beneficial to the enrollee and the adverse risks would not be substantially increased over those of available standard health care services or treatments.

(3) Clinical reviewers shall include the following in their written opinions to the IRO:

(a) A description of the enrollee's medical condition;

(b) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment is likely to be more beneficial to the enrollee than any available standard health care services or treatments and the adverse risks would not be substantially increased over those of available standard health care services or treatments;

(c) A description and analysis of any medical, scientific evidence, or cost-effectiveness evidence as defined in WAC 284-43A-010;

(d) A description and analysis of any evidence-based standard as defined in WAC 284-43A-010; and

(e) Information on whether the reviewer's rationale for the opinion is based on subsection (2)(d) of this section.

(4) IROs shall include the following in their notification of the results and rationale for the determination:

(a) A general description of the reason for the request for external review;

(b) The written opinion of each clinical reviewer, including whether the recommended or requested health care service or treatment should be covered and the rationale for each reviewer's recommendation;

(c) The date the review was requested;

(d) The date the review was conducted;

(e) The date of the IRO's decision;

(f) The principle reason or reasons for the IRO's decision; and

(g) The rationale for the IRO's decision.

NEW SECTION

WAC 284-43A-100 Ongoing requirements for IROs. A certified IRO shall:

(1) Comply with the provisions of RCW 48.43.535(5), and this chapter;

(2) Cooperate with the commissioner during investigations;

(3) Provide the commissioner with information requested in a prompt manner. A lack of response within fifteen business days from receipt of an inquiry will be considered untimely;

(4) Conduct annual self-assessments of compliance with Washington certification requirements;

(5) Maintain certification. Independent review organizations that are certified as of December 31st of the calendar year will be required to submit an annual recertification, using the commissioner's online service, no later than March 31st of the following calendar year. Recertification requires the following:

(a) Submission of an annual attestation on the form required by the commissioner, signed by a company officer, certifying that all requirements within RCW 48.43.537 and this title will be met.

(b) Submission of updated information to the commissioner if at any time there is a change in the information included in the application.

(c) Submit an annual statistical report with the commissioner on a form specified by the commissioner summarizing reviews conducted. The report shall include, but may not be limited to, volumes, types of cases, compliance with timelines for expedited and nonexpedited cases, determinations, number and nature of complaints, and compliance with the conflict of interest requirements described in WAC 284-43A-050.

(d) Submit any other pertinent information required by the commissioner.

NEW SECTION

WAC 284-43A-110 Powers of the commissioner. (1)

The commissioner may deny, suspend, revoke, or modify certification of an IRO if the commissioner has reason to believe the applicant, certified IRO, its agents, officers, directors, or any person with any interest in the IRO has failed or refused to comply with the requirements established under this chapter.

(2) The commissioner may conduct an on-site review, audit, and examine records to investigate complaints alleging that an applicant, certified IRO, or reviewer committed any conduct described in WAC 284-43A-120.

NEW SECTION

WAC 284-43A-120 Grounds for action against an applicant or a certified IRO. (1) The commissioner may deny an application for certification, or suspend, revoke, or modify certification if the applicant, certified IRO, its agents, officers, directors, or any person with any interest:

(a) Makes a misrepresentation of, false statement of, or fails to disclose, a material fact to the commissioner. This applies to any data attached to any record requested or required by the commissioner or matter under investigation or in a self-assessment;

(b) Obtains or attempts to obtain certification by fraudulent means or misrepresentation;

(c) Fails or refuses to comply with the requirements of RCW 48.43.537, 48.43.535(5), or this chapter;

(d) Conducts business or advertising in a misleading or fraudulent manner;

(e) Refuses to allow the commissioner access to records, or fails to promptly produce for inspection any book, record,

document, or item requested by the commissioner, or willfully interferes with an investigation;

(f) Accepts referral of cases from the commissioner under RCW 48.43.535 without certification, or with certification which has been terminated, or is subject to sanction;

(g) Was the holder of a license, certification, or contract issued by the commissioner or by any competent authority in any state, federal, or foreign jurisdiction that was terminated for cause and never reissued, or sanctioned for cause and the terms of the sanction have not been fulfilled;

(h) Had accreditation from a recognized national or state IRO accrediting body that was terminated for cause and never reissued, or sanctioned for cause and the terms of the sanction have not been fulfilled;

(i) Willfully prevents, interferes with, or attempts to impede in any way the work of any representative of the commissioner and the lawful enforcement of any provision of this chapter. This includes, but is not limited to: Willful misrepresentation of facts during an investigation, or administrative proceeding, or any other legal action; or use of threats or harassment against any patient, client, customer, or witness; or use of financial inducements to any patient, client, customer, or witness to prevent or attempt to prevent him or her from providing evidence during an investigation, in an administrative proceeding, or any other legal action involving the commissioner;

(j) Willfully prevents or interferes with any commissioner representative in the preservation of evidence;

(k) Misrepresented or was fraudulent in any aspect of the conduct of business;

(l) Within the last five years, has been found in a civil or criminal proceeding to have committed any act that reasonably relates to the person's fitness to establish, maintain, or administer an IRO;

(m) Violates any state or federal statute, or administrative rule regulating the IRO;

(n) Fails to comply with an order issued by the insurance commissioner or designee;

(o) Uses interference, coercion, discrimination, reprisal, or retaliation against a patient, client, or customer exercising his or her rights;

(p) Offers, gives, or promises anything of value or benefit to any federal, state, or local employee or official for the purpose of influencing that employee or official to circumvent federal, state, or local laws, regulations, or ordinances governing the certification holder or applicant.

(2) A person including, but not limited to, enrollees, carriers, and providers, may submit a written complaint to the commissioner alleging that a certified IRO committed conduct described in this section.

(3) An applicant or certified IRO may contest a commissioner decision or action according to the provisions of RCW 43.70.115, 48.43.535, chapter 34.05 RCW, and this chapter.

NEW SECTION

WAC 284-43A-130 Maximum fee schedule. This section sets the maximum fee schedule for independent reviews, and the process of review and determination of a case referred to an independent review organization (IRO).

(1) IROs may not charge more than the following amount for each review:

Category	Amount
Contract review, interpretation of health plan coverage provisions	\$600
Standard medical review, straightforward review of medical necessity or adverse determination	\$700
Highly specialized medical review of complex conditions or experimental or investigational treatment	\$1000
Medical review with multiple reviewers	\$1100
Surcharge for expedited review	\$200

The fees in this section include all costs for time and materials associated with the review including, but not limited to:

- (a) Record transmission expenses such as postage and facsimile costs; and
 - (b) Medical record handling and duplication.
- (2) If the IRO and the health care plan agree in advance that the referral includes both a contract review and a medical review, the IRO may charge both fees.
- (3) If an IRO charges more than the maximum fees allowed under this section, the commissioner may take action as described in WAC 284-43A-120.

SUBCHAPTER C

REQUIREMENTS FOR CARRIERS IN USING INDEPENDENT REVIEW ORGANIZATIONS (IROs)

NEW SECTION

WAC 284-43A-140 External review of adverse benefit determinations. When the internal review of an adverse benefit determination is final, or is deemed exhausted, the appellant may request an external independent review of the final internal adverse benefit determination. Carriers and health plans must inform appellants of their right to external independent review, and explain the process to exercise that right. If the appellant requests an external independent review of a final internal adverse determination, the carrier or health plan must cooperatively participate in that review.

(1) Appellants must be provided the right to external review of adverse benefit determinations based on medical necessity, appropriateness, health care setting, level of care, or that the requested service or supply is not efficacious or otherwise unjustified under evidence-based medical criteria. The carrier may not establish a minimum dollar amount restriction as a predicate for an appellant to seek external independent review.

(2) Carriers must use the rotational registry system of certified independent review organizations (IRO) established by the commissioner, and must select reviewing IROs in the rotational manner described in the rotational registry system, using the commissioner's online service. A carrier may not

make an assignment to an IRO out of sequence for any reason other than the existence of a conflict of interest, as set forth in WAC 284-43A-050.

(3) The rotational registry system, a current list of certified IROs, IRO assignment instructions, and an IRO assignment form to be used by carriers, are available on the insurance commissioner's web site (www.insurance.wa.gov).

(4) In addition to the requirements set forth in RCW 48.43.535, the carrier and health plan must:

- (a) Make available to the appellant and to any provider acting on behalf of the appellant all materials provided to an IRO reviewing the carrier's determination;
- (b) Provide IRO review without imposing any cost to the appellant or their provider;
- (c) Provide IROs with:
 - (i) All relevant clinical review criteria used by the carrier and other relevant medical, scientific, and cost-effectiveness evidence;
 - (ii) The attending or ordering provider's recommendations; and
 - (iii) A copy of the terms and conditions of coverage under the relevant health plan.
- (d) Within one day of selecting the IRO, notify the appellant of the name of the IRO and its contact information. This requirement is intended to comply with the federal standard that appellants receive notice of the IRO's identity and contact information within one day of assignment. The notice from the carrier must explain that the IRO will accept additional information in writing from the appellant for up to five business days after it receives the assignment. The IRO must consider this information when conducting its review.

(5) A carrier may waive a requirement that internal appeals must be exhausted before an appellant may proceed to an independent review of an adverse determination.

(6) Upon receipt of the information provided by the appellant to the IRO pursuant to RCW 48.43.535 and this section, a carrier may reverse its final internal adverse determination. If it does so, it must immediately notify the IRO and the appellant.

(7) Carriers must report to the commissioner each assignment made to an IRO not later than one business day after an assignment is made. Information regarding the enrollee's personal health may not be provided with the report.

(8) Each carrier and health plan must submit final independent review organization (IRO) decision determination information to the commissioner's online service within three business days of receipt of the IRO's final decision. Data elements and procedures for submission are located on the office of the insurance commissioner's web site.

(9) The requirements of this section are in addition to the requirements set forth in RCW 48.43.535, and rules adopted in subchapter B of this chapter.

NEW SECTION

WAC 284-43A-150 Independent review of adverse determinations. Carriers must use the rotational registry system of certified independent review organizations (IROs) established by the commissioner.

(1) Using the commissioner's online service carriers must select reviewing IROs in the rotational manner described in the rotational registry system. A carrier may not make an assignment to an IRO out of sequence for any reason other than the existence of a conflict of interest, as set forth in WAC 284-43A-050.

(2) The rotational registry system, a current list of certified IROs, IRO assignment instructions, and an IRO assignment form to be used by carriers are set forth on the insurance commissioner's web site (www.insurance.wa.gov).

(3) In addition to the requirements set forth in RCW 48.43.535(4), carriers must:

(a) Make available to the covered person and to any provider acting on behalf of the covered person all materials provided to an independent review organization reviewing the carrier's determination; and

(b) Provide IROs with:

(i) All relevant clinical review criteria used by the carrier and other relevant medical, scientific, and cost-effectiveness evidence;

(ii) The attending or ordering provider's recommendations; and

(iii) A copy of the terms and conditions of coverage under the relevant health plan.

(4) Carriers must report to the commissioner each assignment made to an IRO not later than three business days after an assignment is made. Information regarding the enrollee's personal health should not be provided with the report.

(5) Each carrier and health plan must submit final IRO decision determination information using the commissioner's online service within three business days of receipt of the IRO's final decision. Data elements and procedures for submission are located on the office of the insurance commissioner's web site.

(6) The requirements of this section are in addition to the requirements set forth in RCW 48.43.535, and rules adopted in subchapter B of this chapter.