

**WSR 18-18-006**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed August 23, 2018, 10:12 a.m., effective September 23, 2018]

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

Purpose: The department is amending sections in chapter 388-71 WAC to define person-centered care. Updates include person-centered language, equal access to care and services, client choice in activities and staff, and maintaining dignity, respect, and privacy while attending adult day programs.

Citation of Rules Affected by this Order: Amending WAC 388-71-0702, 388-71-0704, 388-71-0710, 388-71-0714, 388-71-0718, 388-71-0720, 388-71-0722, 388-71-0723, 388-71-0724, 388-71-0728, 388-71-0732, 388-71-0736, 388-71-0746, 388-71-0764, 388-71-0766, and 388-71-0770.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 18-11-136 on May 23, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 16, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 16, Repealed 0.

Date Adopted: August 22, 2018.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

**WAC 388-71-0702 What is the purpose of adult day services?** (1) WAC 388-71-0702 through 388-71-0776 contains the eligibility requirements for community options program entry system (COPEs) waiver, roads to community living (RCL), residential support waiver (RSW), or other agency approved funding for adult day care and adult day health services.

(2) These rules also contain the requirements that apply to adult day care and adult day health centers that contract with the department, area agency on aging, other department designee to provide COPEs (~~waiver~~), RSW, and RCL services to department clients, and adult day centers who are owned and operate on a private pay basis. Nothing in these rules may be construed as requiring the department, an area

agency on aging, or other designee to contract with an adult day care or adult day health center.

(3) An adult day center is a community-based program designed to meet the needs of adults with impairments through individualized goal specific plans of care. This type of structured, comprehensive, nonresidential program provides a variety of health, social, and related support services in a protective setting. Adult day centers support families and caregivers with the following goals:

(a) Provide an opportunity for the client to live in his or her community;

(b) Provide the client with clinical and nonclinical services to meet unmet needs;

(c) Assist the client to maintain maximum independence in his or her activities of daily living (ADL); and

(d) Measure the client's progress through individualized interventions, as outlined in his or her negotiated care plan.

(4) An adult day center evaluates the client's needs and offers services with goal specific interventions to meet those needs and enhance his or her quality of life. The client attends on a scheduled and planned basis. The adult day center evaluates potential clients to determine if center is able to meet their identified needs. Nothing in this generic description may be construed to modify the specific services or eligibility requirements referenced in this chapter of adult day care and adult day health.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0704 What services are provided in adult day care?** Adult day care is a supervised nonresidential program providing services as defined in WAC 388-106-0800. Services are appropriate for adults with medical or disabling conditions that do not require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's authorizing practitioner. The adult day care center must offer and provide on-site the following services. These services must meet the level of care needed by the client as assessed by the department case manager for waiver funded clients and do not exceed the scope of services that the adult day care center is able to provide.

(1) Assistance with activities of daily living:

(a) Locomotion outside of room, locomotion in room, walks in room;

(b) Body care;

(c) Eating;

(d) Repositioning;

(e) Medication management that does not require a licensed nurse;

(f) Transfer;

(g) Toileting;

(h) Personal hygiene at a level that ensures client safety while in attendance at the program; and

(i) Bathing at a level that ensures client safety and comfort while in attendance at the program.

(2) Social services on a consultation basis, which may include:

(a) Referrals to other providers for services not within the scope of COPES waiver or RCL reimbursed adult day care services;

(b) Caregiver support and education; or

(c) Assistance with coping skills.

(3) Routine health monitoring with consultation from a registered nurse that a consulting nurse acting within the scope of practice can provide with or without an authorizing practitioner's order. Examples include:

(a) Obtaining baseline and routine monitoring information on client health status, such as vital signs, weight, and dietary needs;

(b) General health education such as providing information about nutrition, illnesses, and preventative care;

(c) Communicating changes in client health status to the client's caregiver;

(d) Annual and as needed updating of the client's medical record; or

(e) Assistance as needed with coordination of health services provided outside of the adult day care program.

(4) General therapeutic activities that an unlicensed person can provide or that a licensed person can provide with or without an authorizing practitioner's order. These services are planned for and provided based on the client's abilities, interests, and goals, which are not limited by funding source.

Examples include:

(a) Recreational activities;

(b) Diversionary activities;

(c) Relaxation therapy;

(d) Cognitive stimulation; or

(e) Group range of motion or conditioning exercises.

(5) General health education that an unlicensed person can provide or that a licensed person can provide with or without an authorizing practitioner's order, including but not limited to topics such as:

(a) Nutrition;

(b) Stress management;

(c) Disease management skills; or

(d) Preventative care.

(6) A nutritional meal and snacks every four hours, including a modified diet if needed and within the scope of the program, as provided under WAC 388-71-0770;

(7) Supervision and/or protection if needed for client safety;

(8) Assistance with arranging transportation to and from the program; and

(9) First aid and provisions for obtaining or providing care in an emergency. NOTE: If the client requires the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of an authorizing practitioner, consider adult day health services.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0710 What are the eligibility criteria for enrollment in adult day health?** Clients are eligible for adult day health services if they meet the criteria outlined in WAC 388-106-0815 which references WAC 388-106-0300 (~~and~~), 388-106-0305, 388-106-0336(9), and 388-106-0337.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0714 What is considered rehabilitative therapy in adult day health?** (1) Skilled rehabilitative therapy services are medically necessary services provided by or under the supervision of a licensed physical, occupational, or speech-language pathology or audiology therapist that the therapist acting within the scope of practice can provide or supervise directly or indirectly. Authorizing practitioner orders must be initially obtained and updated when a significant change occurs or at least ~~((annually [annually])~~ annually when required by applicable state practice laws for licensed therapists.

(a) Persons that can provide rehabilitative care under the direction and supervision of a licensed therapist include occupational therapy aides, occupational therapy assistants, physical therapy aides, physical therapy assistants, and nurses within their respective scopes of practice. Adult day health program aides, specifically trained in rehabilitative techniques, may also provide care under the direction and supervision of a licensed therapist.

(b) Services, group or individual, must be related to an active written plan of care with time specific measurable treatment goals approved by the authorizing practitioner;

(c) Services, group or individual, must require the assessment, knowledge and skills of a licensed therapist; and

(d) Services, group or individual, must be provided with the reasonable expectation that the services will improve, restore, maintain function, or slow decline. Rehabilitative services are:

(i) Specific to a client diagnosis;

(ii) Individualized to the client with planned, measurable outcomes; and

(iii) Reevaluated every ninety days for effect on improvement of health status or slowing the decline.

(2) Skilled rehabilitative therapy is not a qualifying adult day health service merely because the therapy is ordered by an authorizing practitioner or is provided by a therapist or under the supervision of a therapist. If, by way of example, the therapy can be performed independently by the client or at the client's direction by a person other than a licensed therapist, it is not a qualifying adult day health service.

Skilled rehabilitative therapy services must be medically necessary as defined under WAC 182-500-0070.

(3) Medically necessary physical therapy services may, but do not necessarily include:

(a) Assessing baseline mobility level, strength, range of motion, endurance, balance, and ability to transfer;

(b) One to one and group treatment to relieve pain, develop, restore, or maintain functioning, with individualized and measurable client treatment goals;

(c) Establishing a maintenance or restorative program with measurable treatment goals, and providing written and oral instruction to the client, caregivers, or program staff as needed to assist the client in implementing the program;

(d) Training the client or the client's caregivers in the use of supportive, adaptive equipment or assistive devices;

(e) Evaluation and management of the care plan when medical conditions or complications require complex non-

skilled care and skilled therapist oversight to ensure that the nonskilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of a physical therapist acting within the therapist's scope of practice.

(4) Medically necessary occupational therapy services may, but do not necessarily include:

(a) Administering a basic evaluation to determine baseline level of functioning, ability to transfer, range of motion, balance, strength, coordination, activities of daily living and cognitive-perceptual functioning;

(b) Teaching and training the client, caregivers, or program staff in the use of therapeutic, creative, and self-care activities to improve or maintain the client's capacity for self-care and independence, and to increase the range of motion, strength and coordination;

(c) One to one and group treatment to develop, restore, or maintain functioning with individualized and measurable client treatment goals;

(d) Training the client or the client's caregivers in the use of supportive, adaptive equipment or assistive devices;

(e) Evaluation and management of the care plan when medical conditions or complications require complex non-skilled care and skilled therapist oversight to ensure that the nonskilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of an occupational therapist acting within the therapist's scope of practice.

(5) Medically necessary speech-language pathology or audiology services may, but do not necessarily include((:)):

(a) Assessing baseline level of speech, swallowing, auditory, or communication disorders;

(b) Establishing a treatment program to improve speech, swallowing, auditory, or communication disorders;

(c) Providing speech therapy procedures that include auditory comprehension tasks, visual and/or reading comprehensive tasks, language intelligibility tasks, training involving the use of alternative communication devices, or swallowing treatment;

(d) Training the client or the client's caregivers in methods to assist the client in improving speech, communication, or swallowing disorders;

(e) Evaluation and management of the care plan when medical conditions or complications require complex non-skilled care and skilled therapist oversight to ensure that non-skilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of a speech-language pathology or audiology therapist acting with the therapist's scope of practice.

(6) Medically necessary skilled rehabilitative therapy services, by way of example, do **not** include:

(a) Reminding or coaching the client in tasks that are not essential to the skilled therapy or intervention in the client's service plan;

(b) Monitoring of a medical condition that does not require frequent skilled therapist intervention or a change in authorizing practitioner treatment orders, or where there is no

reasonable expectation that skilled services will maintain, improve, or slow the effect of a progressive disabling condition on the pain, health or functioning of a client;

(c) Massage therapy;

(d) Evaluation and management of the care plan when the complexity of the care to be provided by nonskilled persons does not require the skills of a licensed therapist for oversight;

(e) Continued training by therapy staff to teach self-care for newly diagnosed, acute, or episodic medical conditions when it is apparent that the training should have achieved its purpose or that the client is unwilling or unable to be trained;

(f) ADC services that can be provided by an adult day care center, such as routine health monitoring, general health education, or general therapeutic activities; or

(g) Group therapy or training where the ratio of licensed therapists and assisting program staff to clients is inadequate to ensure that:

(i) The group activity contributes to the individual client's planned therapy goals; and

(ii) The complexity of the individual client's need can be met.

(7) Skilled therapy services must be documented as provided under WAC 388-71-0746 and 182-502-0020.

AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

**WAC 388-71-0718 What is the adult day care center's responsibility in developing the client's negotiated care plan?** (1) Upon the department's or authorized case manager's referral of a ~~((community options program entry system ()))~~ ~~((COPES ()))~~, ~~((roads to community living ()))~~ RSW, RCL (()), or other agency approved client to an ADC center, the ADC center must respond in writing to the department or authorized case manager within two working days, acknowledging receipt of the referral and the center's ability to process and evaluate the referred client.

(2) The case manager will provide the client's department service plan to the ADC center within five working days after the client or client's representative has signed it.

(3) The ADC center must schedule and conduct an intake and evaluation visit with the referred client or the client and his or her authorized representative to determine the client's ~~((willingness))~~ desire to attend the ADC center and evaluate the ADC center's ability to meet the client's assessed needs and specific goals as defined in the client's department service plan. The intake and evaluation must be based on an interview with the client or the client and his or her authorized representative.

(4) Within ten paid service days from the date the client started attending the ADC center, the ADC center must complete and provide a preliminary service plan to the client or the client and his or her representative and the client's case manager that outlines the client's strengths, deficits, and potential needs. The ADC center must determine whether it can meet the client's needs, how it will meet the client's needs, and whether it will accept the client into the program. The ADC center must not accept a client whose needs the center cannot meet. The ADC center must document in the

client's file the date it accepted the client into the ADC program. If the client is not accepted into the ADC program, the preliminary service plan must include the reason(s) why the client was not accepted.

(5) Within thirty calendar days of the date the client was accepted into the ADC program, the ADC center must work with the client or the client and his or her authorized representative to develop and complete a negotiated care plan signed by the client or the client's authorized representative and the ADC center.

(6) The negotiated care plan must limit the frequency of services to the number of days authorized in the department authorized service plan. The negotiated care plan must include:

(a) A list of the care and services the ADC center will provide the client;

(b) Identification of who will provide the client's care and services;

(c) When and how the ADC center will provide the care and services;

(d) How the ADC center will manage the client's medications and how the client will receive his or her medications when attending the ADC center;

(e) The client's activity preferences and how the ADC center will meet these preferences;

(f) Other preferences and choices about issues important to the client, including, but not limited to:

(i) Food;

(ii) Daily routine;

(iii) Activities;

(iv) Services received and who will provide the services received;

(v) Individuals they interact with;

(vi) Grooming;

~~((iv))~~ (vii) How the ADC center will accommodate the client's preferences and choices; and

(g) If needed, a plan to:

(i) Follow in case of a foreseeable crisis due to the client's assessed needs;

(ii) Reduce tension, agitation, and problem behaviors;

(iii) Respond to the client's special needs, including, but not limited to medical devices and related safety plans, and if medical devices are used, ADC center staff must ensure the medical device will not be used as a physical restraint for discipline or staff convenience and must also ensure clients are free from coercion while attending the ADC center;

(iv) Respond to the client's refusal of care or treatment, including when the ADC center should notify the client's physician or practitioner of the client's refusal; and

(v) Identify any communication barriers the client may have and how the ADC center will use the client's behaviors and nonverbal gestures to communicate with him or her.

(7) The ADC center must:

(a) Ensure medical devices will never be used as a physical restraint for discipline or staff convenience;

(b) Update the negotiated care plan annually and whenever there is a significant change in the client's condition and needs;

(c) Share the negotiated care plan with the client's case manager whenever it is updated, annually, and after a significant change;

(d) Ensure the client's case manager reviews the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included;

(e) Keep the current negotiated care plan in the client's file; and

(f) Offer a copy of the negotiated care plan to the client or the client and his or her authorized representative.

(8) The ADC center must report changes in the client's condition or unanticipated absences more than three consecutive scheduled days of service to the client's case manager within one week.

(a) Unanticipated absences may include but are not limited to absences due to client illness or change in transportation access.

(b) The case manager may follow up with the client or the client and his or her representative and determine if any updates to the assessment, client's department service plan, or service authorizations are needed.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0720 What is the adult day health center's responsibility in working with the department or their designee to obtain, use and update the CARE assessment?**

(1) The department or an authorized case manager must perform a CARE assessment to determine a client's need for adult day health, per WAC 388-106-0065. Based on the assessment, the case manager determines whether the client should be referred for day health services or whether the client's needs can be met in other ways.

(2) If the client **has** a department or area agency on aging case manager, the adult day health center or other referral source must notify the case manager of the client's potential adult day health service need. The case manager must assess the client's need for skilled nursing or skilled rehabilitative therapy within the department's normal time frames for client reassessments.

(3) If the client **does not have** a department or area agency on aging case manager, the adult day health center or other referral source must notify the department of the referral and the client's potential adult day health service need, or refer the client to the department for intake. The department's assigned case manager must assess the client's need for adult day health services within the department's normal time frames for initial client eligibility assessments.

(4) The case manager may consult with the client's authorized practitioner, department or area agency on aging nursing services staff, or other pertinent collateral contacts, concerning the client's need for skilled nursing or rehabilitative therapy.

(5) If the department or area agency on aging case manager determines and documents a potential unmet need for day health services, the case manager works with the client and/or the client's representative to develop a service plan that documents the potential unmet needs and the anticipated number of days per week that the services are needed. The

case manager refers the client to a department contracted adult day health center for evaluation and the development of a preliminary service plan.

(6) The department or area agency on aging case manager must reassess adult day health clients at least annually. Clients must also be reassessed if they have a break in service of more than thirty days. The adult day health center must inform the case manager of the break in service so payment authorization can be discontinued.

(7) COPES, RSW, and RCL recipients of adult day health services must be assessed by the department or an authorized case manager for initial or continued eligibility as follows:

- (a) Annual reassessment for department clients; or
- (b) A new client to the center who potentially could be eligible for state paid ADH services are to be referred to the local department offices for intake and assessment for eligibility.

(8) The department or area agency on aging case manager must review a client's continued eligibility for adult day health services every ninety days, coinciding with the quarterly review completed by the adult day health program. At the case manager's discretion, additional information will be gathered through face to face, collateral or other contact methods to determine continued eligibility. Services will be continued, adjusted, or terminated based upon the case manager's determination during the eligibility review.

**AMENDATORY SECTION** (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

**WAC 388-71-0722 What is the adult day health center's responsibility in developing the client's negotiated care plan?** (1) Upon the department's or authorized case manager's referral of a ~~((community options program entry system-))~~ COPES~~((,))~~, ~~((roads to community living-))~~ RSW, RCL~~((,))~~, or other agency approved client to an ADH center, the ADH center must respond in writing to the department or authorized case manager within two working days, acknowledging receipt of the referral and the center's ability to process and evaluate the referred client.

(2) The case manager must provide the client's department service plan to the ADH center within five working days after obtaining the client or client's authorized representative's signature on the service plan.

(3) The ADH center must schedule and conduct an intake and evaluation visit with the referred client or the client and his or her authorized representative to determine the client's ~~((willingness))~~ desire to attend the ADH center and evaluate the ADH center's ability to meet the client's needs as defined in the client's department service plan.

(4) Within ten paid service days from the date the client started attending the ADH center, the center must complete an intake and evaluation and provide a preliminary service plan to the client or the client and his or her authorized representative and the client's case manager.

(a) The ADH center's intake and evaluation must include multidisciplinary assessments based on interviews and evaluations of the client's strengths and limitations with the client or the client and his or her authorized representative.

(b) If the department service plan indicates a nursing or rehabilitative need during the intake and evaluation period, licensed professionals must conduct evaluations and assessments of the client's clinical or rehabilitative needs.

(c) The preliminary service plan must include:

(i) Client specific problems or needs as identified in the intake and evaluation;

(ii) The needs for which the client chooses not to accept services or refuse care or services;

(iii) What the center will do to ensure health and safety of the client related to the refusal of any care or service;

(iv) Client specific and agreed upon goals;

(v) Client preferences; and

(vi) How the center will meet the client's needs and preferences.

(d) Based on the ADH center intake and evaluation, the ADH center must determine whether it can meet the client's needs, how it will meet the client's needs, and whether it will accept the client into the ADH program.

(i) The ADH center must not accept a client whose needs the center cannot meet.

(ii) If the client is accepted into the ADH program, the ADH center must document the date of acceptance in the client file.

(iii) If the client is not accepted into the ADH program, the preliminary service plan must include the reason(s) why the client was not accepted.

(e) The ADH center must provide the client, or the client's authorized representative, and the client's case manager, a copy of the evaluation and preliminary service plan within ten paid days of service.

(5) The ADH center will be reimbursed under WAC 388-71-0724 for any service days provided from the state of the intake and evaluation, if the case manager has authorized services.

(6) Upon the department's or authorized case manager's approval of the ADH center's preliminary service plan, the ADH center must obtain and provide to the case manager any required practitioner's orders for skilled nursing, rehabilitative therapy services, and medical devices that pertain to those services and interventions the ADH center is providing to the client under WAC 388-71-0712 through 388-71-0714. Orders from authorizing practitioners are not necessary for medical devices that are within the professional scope of practice of occupational or physical therapists working within the day center.

(a) The authorizing practitioner orders must:

(i) Include the frequency of authorized service;

(ii) Include use of and parameters for the authorized medical devices;

(iii) Include how often the client is to be seen by the authorizing practitioner;

(iv) Include the client's consent to follow up with the authorizing practitioner; and

(v) Be reviewed, updated, or revised when a significant change occurs, at least annually, or sooner if required by the prescriber.

(b) The case manager or nursing services staff may follow up with the practitioner, or other pertinent collateral contacts, concerning the client's need for skilled services.

(c) Services must not be authorized for payment without current practitioner orders.

(d) The authorizing practitioner must only authorize services, supports, and interventions that are within the practitioner's professional scope of practice.

(7) Within thirty calendar days of acceptance into the program, the ADH center's multidisciplinary team must work with either the client or the client and his or her authorized representative to develop and complete a negotiated care plan signed by the client or the client's authorized representative and the ADH center. The negotiated care plan may be developed initially in lieu of the preliminary service plan.

(8) The negotiated care plan must be consistent with the department-authorized service plan, include all authorized ADC and ADH services, limit the frequency of services to the number of days in the department authorized service plan, and must include:

(a) A list of the care and services the ADH center will provide the client;

(b) Time specific, measurable, and individualized client goals;

(c) Who will provide the client's care and services;

(d) When and how the ADH center will provide the care and services;

(e) How the ADH center will manage the client's medications, including how the client will receive his or her medications when attending the ADH center;

(f) The client's activity preferences and how the ADH center will meet these preferences;

(g) Other preferences and choices about issues important to the client including, but not limited to:

(i) Food;

(ii) Daily routine;

(iii) Activities;

(iv) Services received and who will provide the services received;

(v) Individuals they interact with;

(vi) Grooming; and

~~((iv))~~ (vii) How the ADH center will accommodate the preferences and choices;

(h) Individualized discharging or transition goals;

(i) If needed, a plan to:

(i) Address potential behavioral issues identified in the assessment, service plan, or through the intake and evaluation;

(ii) Follow in case of a foreseeable crisis due to a client's assessed needs;

(iii) Reduce tension, agitation, and problem behaviors;

(iv) Respond to the client's special needs, including, but not limited to medical devices and related safety plans, and if medical devices are used, ADH center staff must ensure the medical device will not be used as a physical restraint for discipline or staff convenience, while attending the ADH center;

(v) Respond to the client's refusal of care or treatment, including when the ADH center should notify the client's physician or practitioner of the client's refusal; and

(vi) Identify any communication barriers the client may have and how the ADH center will use the client's behaviors and nonverbal gestures to communicate with him or her.

(9) The ADH center must:

(a) Ensure medical devices will never be used as a physical restraint for discipline or staff convenience;

(b) Review and update each service in the negotiated care plan every ninety days or more often if the client's condition changes;

(c) Share the negotiated care plan with the client's case manager whenever it is updated, annually, or after significant change;

(d) Ensure the client's case manager reviews the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included;

(e) Obtain the case manager's approval whenever it is updated, annually, or after a significant change;

(f) Keep the current negotiated care plan in the client's file(~~(, provide)~~); and

(g) Offer a copy of the negotiated care plan to the client or the client and his or her authorized representative.

(10) The client's case manager must review the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included.

(11) The ADH center must report changes in the client's condition or unanticipated absences of more than three consecutive scheduled days of service to the client's case manager within one week.

(a) Unanticipated absences may include, but are limited to absences due to client illness or a change in transportation access.

(b) The case manager may follow up with the client or the client and his or her authorized representative and determine if any updates to the assessment, client's department service plan, or service authorizations are needed.

AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

**WAC 388-71-0723 What is the adult day center's responsibility in the use of medical devices, restraints, and prevention of abuse?** (1) **Medical devices.** When the adult day center staff use a medical device, it must not be used as a physical restraint for discipline or staff convenience.

(2) **Physical restraints.** When the adult day center staff provide services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client has a right to be free from physical restraints used for discipline or staff convenience.

(3) **Chemical restraints.** When the adult day center staff provide services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client is free from chemical restraints used for discipline or staff convenience.

(4) **Involuntary seclusion.** When the adult day center staff provides services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client's right to be free from involuntary seclusion or isolation used for discipline or staff convenience.

(5) **Prevention of abuse.** When the adult day center staff provides services for a client, which may include but are not

limited to transportation, outings, and services at the facility, the adult day center must:

(a) Ensure the client's right to be free from abandonment, verbal, sexual, physical, and mental abuse, personal exploitation, financial exploitation, neglect, coercion, and involuntary seclusion;

(b) Protect the client who is an alleged victim of abandonment, verbal, sexual, physical, and mental abuse, personal exploitation, financial exploitation, neglect, and involuntary seclusion; and

(c) Meet the requirements of chapter 74.34 RCW regarding mandatory reporting.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0724 How do I apply for an adult day program state contract?** (1) The department, or an area agency on aging (or other department designee) as authorized by the department, must determine that the adult day care or day health center meets the applicable adult day care or day health requirements and any additional requirements for contracting with the area agency on aging, according to each AAA's procurement procedure, through a state contract.

(2) All ADH centers must also have a core provider agreement with the health care authority in order to bill for providing care and services to the COPES ((~~o~~)), RSW, and RCL participants.

(3) If a center is contracting for both day care and day health, requirements of both adult day services must be met.

(4) A prospective provider desiring to provide adult day services shall be provided an application form from the department or the area agency on aging. A prospective provider convicted of abuse or neglect of a vulnerable adult is not eligible to provide adult day services in any capacity within the organization per chapter 74.34 RCW.

(5) The prospective provider will provide the area agency on aging with evidence of compliance with, or administrative procedures to comply with, the adult day service rules under this chapter.

(6) The area agency on aging will conduct a site inspection of the adult day center and review of the requirements for contracting.

(7) Within thirty days of completing the site visit, the area agency on aging will advise the prospective provider in writing of any deficiencies in meeting contracting requirements.

(8) The area agency on aging will verify correction of any deficiencies within thirty days of receiving notice from the prospective provider that deficiencies have been corrected, before contracting can take place.

(9) The area agency on aging will provide the department with a written recommendation as to whether or not the center meets contracting requirements.

(10) Minimum application information required to apply for contract(s) with the department, or an area agency on aging includes:

(a) Mission statement, business structure, bylaws, articles of organization or articles of incorporation if applicable and current business license;

(b) Names and addresses of the center's owners, officers, and directors as applicable;

(c) Organizational chart;

(d) Fiscal policies and procedures;

(e) A business plan to address the future financial needs of the center. This plan must include projected program growth, capital purchases, projected revenue, projected expenses, and plans for fund raising, if applicable. Also include an annual program operating budget including all anticipated revenue sources and expenditures and any fees generated;

(f) The most current financial statement prepared in accordance with generally accepted account principles (GAAP) or the latest audit report of the organization by a certified public accountant;

(g) Program policies and operating procedure manual;

(h) Personnel policies and job descriptions and qualifications of each paid staff position and volunteer position functioning as staff;

(i) Policies and procedures meeting the requirements of mandatory reporting procedures as described in chapter 74.34 RCW to adult protective services for vulnerable adults and local law enforcement for other participants;

(j) Floor plan of the facility;

(k) Local building inspection, fire department, and health department reports with food handler permits if applicable;

(l) Updated TB test results for each staff member according to WAC 388-71-0750;

(m) Sample client case file including all forms that will be used;

(n) Activities calendar with alternative choice activities, for the month prior to application, or a sample calendar if the day service provider is new((~~-~~));

(o) Role and function of the board of directors ((~~if applicable~~)) and advisory committee, if applicable;

(p) Monthly menu or sample if center is new, which accommodates each resident's:

(i) Preferences;

(ii) Food allergies and sensitivities;

(iii) Caloric needs;

(iv) Cultural and ethnic background; and

(v) Physical condition that may make food intake difficult such as being hard for the resident to chew or swallow; and

(q) Certificates of insurance per WAC 388-71-0736.

((~~10~~)) (11) The area agency on aging or other department designee monitors the adult day center at least annually to determine continued compliance with adult day care and/or adult day health requirements and the requirements for contracting with the department or the area agency on aging.

(a) The area agency on aging will send a written notice to the provider indicating either compliance with contracting requirements or any deficiencies based on the annual monitoring visit and request a corrective action plan. The area agency on aging will determine the date by which the corrective action must be completed.

(b) The area agency on aging will notify the department of the adult day center's compliance with contracting require-

ments or corrected deficiencies and approval of the corrective action plan for continued contracting.

~~((11))~~ (12) Adult day care services are reimbursed on an hourly basis up to four hours per day. Service provided four or more hours per day will be reimbursed at the daily rate.

~~((12))~~ (13) Adult day center reimbursements are adopted by rule with adjustments determined by the state legislature. Providers seeking current reimbursement rates can refer to the billing instructions.

~~((13))~~ (14) A one-time only initial intake evaluation provided by an adult day health center, including development of a negotiated care plan, is reimbursed at an established rate as may be adopted in rule. Rate adjustments are determined by the state legislature. Separate reimbursement is not available for subsequent evaluations.

~~((14))~~ (15) Transportation to and from the program site is not reimbursed under the adult day care rate. Transportation arrangements are made with locally available transportation companies or informal resources.

~~((15))~~ (16) Transportation to and from the program site is reimbursed under the adult day health daily rate. Adult day health is required to assist clients in arranging or providing transportation to and from the program sites.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0728 Can a client receive both adult day care and adult day health?** (1) A COPEs, RSW, or RCL((-))eligible client may receive adult day care services on some days and adult day health services on different days if the service plan documents which level of service are to be provided on which days. However, ADC services must be provided on all days that adult day health skilled services are provided, and reimbursement is limited to the day health rate on days that day health services are provided.

(2) Clients receiving services from the department in an adult family home, assisted living, or other licensed community residential facility may not receive COPEs, RSW, or RCL((-))funded adult day care, but may receive COPEs funded adult day health services when the skilled nursing or rehabilitative services are approved by the client's case manager as part of the client's service plan.

(3) A licensed assisted living facility providing department-approved day care under chapter 388-78A WAC is subject to any applicable provisions of that chapter and is also subject to the rules under this chapter if the facility contracts with an area agency on aging or the department to provide COPEs waiver or RCL funded adult day services.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0732 What are the client's hearing rights?** (1) If the department or area agency on aging denies, terminates, or reduces a COPEs, RSW, or RCL individual client's adult day care or day health services, the client has the right to an administrative hearing as provided under chapter 388-02 WAC. If a client funded with Senior Citizen Services Act or respite care has a complaint, grievance or dispute, the

resolution process is a hearing as outlined in the department's area agency on aging (~~(policy))~~ policy and procedure manual chapter 6. The area agency on aging would work with the client through this process.

(2) An adult day care or day health center has those hearing or dispute resolution rights that are afforded under RCW 43.20B.675 and the center's contract with the area agency on aging or the department. An adult day health center has any other applicable hearing or dispute resolution rights under WAC 182-502-0220.

(3) Adult day health centers are subject to all applicable provisions of chapter 182-502 WAC, and the department's aging and long term support administration may exercise the department's authority under that chapter to the same extent as the health care authority.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0736 What business and administrative documentation does the center need?** (1) Adult day centers must have written documentation of the organizational structure and administration of the program.

(2) Organizational and administrative documentation must include but are not limited to:

(a) Core values and mission (~~(statement - [statement])~~) statement of the organization;

(b) Ethical standards of the center and professional standards of conduct;

(c) Short and long-range program goals;

(d) Definition of the target population, including number, age, and needs of participants;

(e) Geographical definition of the service area;

(f) Hours and days of operation (~~((Centers))~~) of the center or a combination of centers under single ownership must operate at least three days a week for four consecutive hours, with each center providing at least four hours of programming a day((-));

(g) Description of basic services and any optional services;

(h) Description of service delivery;

(i) Business structure, articles of organization or bylaws, as applicable;

(j) Current business license;

(k) Names and addresses of the center's owners, officers, and directors, as applicable;

(l) Certificates of insurance, including but not limited to property and general liability insurance; business auto if the center uses vehicles to transport clients; professional liability; workers' compensation; employers' liability if applicable; coverage for acts and omissions of employees and volunteers; and certificates of insurance for any subcontractors;

(m) Minutes of last three meetings of the board of directors, if applicable, and the advisory committee;

(n) Role and functions of an advisory committee((-)) which must:

(i) Meet at least twice a year; and (~~((which must))~~)

(ii) Be representative of the community and include family members of current or past clients and nonvoting staff representatives ((-));

(A) When an adult day center is a subdivision of a multi-function organization, a committee or subcommittee of the governing body of the multifunction organization may serve as the advisory committee((-)); or

(B) A single purpose agency may utilize its governing board as an advisory committee((+));

(o) An organizational chart illustrating the lines of authority and communication channels of the center, which must be available to all staff and clients;

(p) A calendar of programming (or sample calendar if the center is new), including alternative programming options;

(q) A monthly menu ((f)) or sample menu if the center is new((g)), which accommodates each resident's:

(i) Preferences;

(ii) Food allergies and sensitivities;

(iii) Caloric needs;

(iv) Cultural and ethnic background; and

(v) Physical condition that may make food intake difficult such as being hard for the resident to chew or swallow;

(r) Current building, health, food service and fire safety inspection reports, and food handler permits, as applicable; and

(s) Quality improvement plans and results.

**AMENDATORY SECTION** (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0746 What are the adult day center's client records requirements?** (1) If the client's record is hand-written it must be legibly written in ink, dated, and signed by the recording person with his/her title. Identification of the author may be a signature, initials, or other unique identifier within the requirements of applicable licensing standards and center policy. All hand-written documentation must be legible to someone other than the author. If signature is a unique identifier, such as initials, there must be a key readily available for use by the department ((ef)) or their designee. The negotiated care plan must have the center's author's full name and title on the signature line.

(2) If the client's record is an automated electronic record then it must be within a secured client record system to ensure confidentiality for all records, in accordance with state and federal laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA). If electronic signature is a unique identifier then there must be a key readily available for use by the department or their designee. The negotiated care plan must have the center's author's full name and title on the signature line.

(3) Progress notes must be entered into the file chronologically and timely. Adult day health centers' professional interventions must be charted directly after providing the service. Adult day care centers must have progress summary notes at least monthly. Client dates and hours of attendance are to be kept daily.

(4) Consultation, care plan reviews and updating orders, hardcopy or electronic records, must be dated and initialed by the center's reviewer(s) or authorizing practitioner. The authorizing practitioner must update the skilled clinical orders at least annually or when a significant change occurs

warranting a change in the skilled clinical intervention. The authorizing practitioner does not need to review the care plan but does need to update skilled clinical orders as outlined above.

(5) Documentation of medication use must include the name of the medication, dosage, frequency of administration, route of administration, site of injection if applicable, date and time and signature or initials of the person administering the medication, title, and date.

(6) If the client records are thinned or ~~((achieved))~~ archived, per your policy and procedure, all records must be readily available to the federal, state, or ~~((their))~~ agency designee for monitoring purposes.

(7) Department-contracted adult day health centers must comply with all other applicable documentation requirements under WAC 182-502-0020.

**AMENDATORY SECTION** (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0764 How will medications be provided in an adult day center?** (1) The center must develop written medication policies that support and promote safe medication storage and administration for each participant and meet the requirements of chapters 69.41 RCW and 246-88 WAC and other applicable statutes. These policies must be explained and accessible to all staff, contractors, volunteers, and participants that have responsibility in this area.

(2) Participants who need to take medications while at the center, and who are able to self-medicate, must be encouraged and expected to bring and take their own medications as prescribed. Some participants may need assistance with their medications, and some may need to have their medications administered by qualified program staff.

(3) In order for the center staff to administer any prescribed medication, there must be a written authorization from the participant's authorizing practitioner stating that the medication is to be administered at the program site.

(4) Staff must be trained to observe medication usage and effects, and to document and report any concerns or difficulties with medications.

(5) At a minimum, medication policies must include the following:

(a) How medications will be labeled and stored. Medications must be:

(i) Labeled according to your policy including prescribed and over the counter medications;

(ii) Kept in a locked storage area organized so client's medications are not mixed together; and

(iii) If refrigeration is necessary, medications should be in a locked box, if not in a separate refrigerator dedicated to medication refrigeration.

(b) Procedures for administration of medications, including:

(i) What program staff are allowed and able to administer medications and under what circumstances;

(ii) How nonprescription medications such as aspirin or laxatives are to be used; and

(iii) How the administration of medications will be entered in participant case records as described in WAC 388-71-0744.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0766 What are the adult day centers' facility requirements?** (1) Selection of a location for a center must be based on information about potential participants in the service area and be made in consultation with other agencies, organizations, and institutions serving older individuals and those with functional impairments, as well as considering the availability of a suitable location.

(2) Centers must have available a current floor plan of the facility indicating usage of space with interior measurements, building inspection report from the local, city or county, building department, if applicable, fire department inspection report, and the local health department kitchen inspection report and permit if operating an on-site kitchen.

(3) When possible, the facility should be located at street level. If the facility is not located at street level, it is essential to have a ramp and/or elevators. All new adult day service centers contracted with the department after February 1, 2014 must have a ramp, at least a 1:12 slope, for emergency evacuation if the center has any ~~((step))~~ steps or stairs to be navigated during an emergency evacuation. An evacuation plan for relocation of participants to another building must also be in place in the event of an emergency. The center must post a floor plan of the center and indicate the evacuation route from each room to the outside meeting place.

~~((5))~~ (4) Each adult day center co-located in a facility housing other services must have its own separate identifiable space for main activity areas during operational hours. Certain space can be shared, such as the kitchen and therapy rooms.

~~((6))~~ (5) Each center must provide appropriate hardware on doors of storage rooms, closets, bathrooms, and other rooms to prevent participants from being accidentally locked in.

~~((7))~~ (6) When possible, the location should be within a transit authority's core service area.

~~((8))~~ (7) The facility must have:

(a) Sufficient space to accommodate ~~((the))~~ a full range of ~~((program activities))~~ programs and ~~((services. The facility must))~~ activities necessary for participant needs;

(b) Be adaptable to accommodate variations of activities ~~((for group ((and/or)) and individual((and)) services((The program must provide and))~~);

(c) Maintain essential space ~~((necessary to provide))~~ when providing services ~~((and))~~ to protect the privacy and dignity of ~~((the participants receiving services. There must be))~~ each participant in a respectful manner;

(d) Sufficient ~~((private))~~ space ~~((to permit staff to work effectively and without interruption. There must be sufficient space))~~ available for private discussions; and

(e) Private and designated space allowing staff to work without interruption.

~~((9))~~ (8) The facility must provide at least sixty square feet of program space for multipurpose use for each day cen-

ter participant. In determining adequate square footage, only those activity areas commonly used by participants are to be included. Hallways, dining and kitchen areas are to be included only if these areas are used by clients for activities other than meals. Reception or lobby areas, storage areas, offices, restrooms, passageways, treatment rooms, service areas, or specialized spaces used only for therapies are not to be included when calculating square footage.

~~((10))~~ (9) Storage space.

(a) There must be adequate storage space for program and operating supplies.

(b) Toxic substances, whether for activities or cleaning, must be stored in an area not accessible to participants. Substances must be clearly marked, the contents identified, and stored in original containers.

~~((11))~~ (10) Restrooms.

(a) The facility's restrooms must be located as near the activity area as possible, preferably no more than forty feet away. The facility must include at least one toilet for every ten participants. The facility must provide privacy for the participant when using the restroom facilities.

(b) Programs that have a large number of participants who require more scheduled toileting or assistance with toileting must have at least one toilet for every eight participants.

(c) The toilets shall be equipped for use by mobility-limited persons and easily accessible from all program areas. One toilet area should be designed to allow assistance from one or two staff. More accessible units may be required based upon the needs of the participants.

(d) Each restroom must contain an adequate supply of soap, toilet tissues, and paper towels.

(e) After month/day/year all newly contracted adult day service facilities or contracted adult day service ~~((provider))~~ providers opening another site must have at least one roll in shower for participant use. Showers are to be accessible to those who require bathing as an ADC service.

~~((12))~~ (11) Rest area.

(a) In addition to space for program activities, the facility must have a designated rest area ~~((and designated areas to permit))~~ which provides privacy and ~~((to isolate))~~ maintains dignity for participants who become ill ~~((or))~~, disruptive, or who may require rest. The designated space must not be used for discipline or staff convenience.

(b) The rest area must be located away from activity areas and near a restroom and the nurse's office. There must be at least one bed, couch, or recliner for every ten participants that can be used for resting or the isolation of a participant who is ill or suspected of coming down with a communicable disease.

(c) If beds are used, the mattresses and pillow must be protected, cleaned and disinfected after each participant use. The bed linens must be clean and changed after each use by different participants to prevent the spread of infection.

~~((13))~~ (12) Loading zones/parking/entrances/exits.

(a) A loading zone with sufficient space for getting in and out of a vehicle must be available for the safe arrival and departure of participants and the use of emergency personnel.

(b) There must be sufficient parking available to accommodate family caregivers, visitors, and staff.

(c) When necessary, arrangements must be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for people entering and exiting the facility.

(d) Adequate lighting must be provided in all loading and parking zones, entrances, and exits.

(e) An adult day center must be visible and recognizable as a part of the community. The entrance to the facility must be clearly identified. The center must also be appealing and protective to participants and others.

(f) At least two well-identified exits must be accessible from the building.

~~((14))~~ (13) Atmosphere and design.

(a) The center's design must facilitate the participants' movement throughout the facility and encourage involvement in activities and services.

(b) The environment must reinforce orientation and awareness of the surroundings by providing cues and information about specific rooms, locations, and functions that help the participant to get his/her orientation to time and space.

(c) A facility must be architecturally designed in conformance with the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act to accommodate individuals with a disability and meet any state and local barrier-free requirements.

(d) Illumination levels in all areas must be adequate, and careful attention must be given to avoiding glare. Attention must be paid to lighting in transitional areas, such as outside to inside and between different areas of the facility.

(e) Sound transmission must be controlled. Excessive noise, such as fan noise, must be avoided.

(f) Comfortable conditions must be maintained within a comfortable temperature range. Excessive drafts must be avoided uniformly throughout the facility.

(g) Sufficient furniture must be available for the entire population present. Furnishings must accommodate the needs of participants and be attractive, comfortable, sturdy, clean and safe. Straight-backed chairs with arms must be used during activities and meals.

(h) A telephone must be available for participant use. Local calls are to be available at no cost to the participant.

~~((15))~~ (14) Safety and sanitation.

(a) The facility and grounds must be safe, clean, and accessible to all participants, and must be designed, constructed, and maintained in compliance with all applicable local, state, and federal health and safety regulations.

(b) Nonslip surfaces must be provided on stairs, ramps, and interior floors.

(c) Alarm/warning systems are necessary to ensure the safety of the participants in the facility in order to alert staff to potentially dangerous situations. This system needs to be activated when the center's staff have determined a ~~((participant's have the))~~ participant has a potential safety ~~((issues with))~~ issue of wandering. It is recommended that call bells be installed or placed in the rest areas, restroom stalls, and showers.

(d) An emergency evacuation plan with outside meeting location at a safe distance from the building must be strategically posted in each facility so that all participants, staff, and

visitors can view it. If the center provides services to primarily non-English speaking clients the evacuation plan must also contain instructions in the primary language used by clients of the center. The center's emergency disaster plan must be readily available to all staff and reviewed routinely to ensure a safe and secure environment during a disaster.

(e) The facility must be free of hazards, such as high steps, steep grades, and exposed electrical cords. Steps and curbs must be painted and the edges of stairs marked appropriately to highlight them. All ~~((step))~~ steps, stairs, ramps, and bathrooms accessible to those with disabilities must be equipped with securely anchored handrails on both sides.

(f) Emergency first-aid kits and manuals must be visible and accessible to staff. Contents of the kits must be replenished after use and reviewed as needed.

(g) Maintenance and housekeeping must be carried out on a regular schedule and in conformity with generally accepted sanitation standards, without interfering with the program.

(h) If smoking is permitted, the center must follow chapter 70.160 RCW, Smoking in public places.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0770 What are the adult day centers' food and nutrition service requirements?** Centers must provide meal service to all participants as outlined in WAC 388-71-0704 and 388-71-0706.

(1) All meals provided are to meet one-third of the minimum required daily allowance or dietary reference intake as determined by the Food and Nutrition Board of the Institute of Medicine.

(2) The center must ensure that food served meets nutritional needs, takes into consideration individual and ethnic preferences to the extent reasonably possible, caloric need, special dietary requirements, and any physical condition making food intake difficult.

(3) The center must provide a variety of foods and not repeat menus for a minimum of three weeks.

(4) Participant input must be gathered when planning meals.

(5) Menus must be posted at least one week in advance; indicate the month, year, date, day of the week ~~((month and year))~~; and include ~~((all))~~ food and ~~((snacks))~~ snack choices served that contribute to nutritional requirements.

(6) Nutrient concentrates, supplements, and dysphagia-modified diets related to a choking or aspiration risk, are to be served only with the written approval of the participant's authorizing practitioner.

(7) Safe and sanitary handling, storage, preparation, and serving of food must be assured. If meals are prepared on the premises, kitchen appliances, food preparation area, and equipment must meet state and local requirements and pass inspections annually.

(8) All staff and volunteers handling or serving meals must have the appropriate food handler's permits, if applicable.

(9) In the event meals are prepared at a separate kitchen facility, the adult day center must ensure that persons prepar-

ing food have a food handler's permit and that the food is transported in airtight containers to prevent contamination.

(10) The center must ensure that the food is transported and served at the appropriate and safe temperature.

**WSR 18-19-001**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-229—Filed September 5, 2018, 12:54 p.m., effective October 6, 2018]

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

Purpose: The purpose of the proposal is to align boundary descriptions from WAC 220-410-010 and 220-415-040 with the county's road name.

Citation of Rules Affected by this Order: Amending WAC 220-410-010 and 220-415-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.240.

Adopted under notice filed as WSR 18-14-050 on June 28, 2018.

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 the Request of a Non-governmental 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: September 5, 2018.

Kelly Susewind  
Director

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

**WAC 220-410-010 Game management units (GMUs) boundary descriptions—Region one.**

**GMU 101-SHERMAN (Ferry and Okanogan counties):**

Beginning at the Kettle River and the US-Canadian border near the Ferry Customs Office, north of the town of Toroda; E on the US-Canadian border to the Kettle River, east of the town of Laurier; S down the Kettle River (Ferry-Stevens county line) to the mouth of the Kettle River on Lake Roosevelt; S down the western shore of Lake Roosevelt to the northeastern corner of the Colville Indian reservation; W on the northern Colville Indian reservation boundary to State Route (SR) 21; N on SR 21 to SR 20 at the town of Republic; NW on SR 20 to Toroda Creek Rd at the town of Wauconda;

NE on the Toroda Creek Rd to Toroda Creek at the town of Toroda; E along Toroda Creek to its mouth on the Kettle River; N up the Kettle River to the US-Canadian border near the Ferry Customs Office north of the town of Toroda and point of beginning.

**GMU 105-KELLYHILL (Stevens County):**

Beginning at the Kettle River (Ferry-Stevens county line) and the US-Canadian border east of the town of Laurier; E on the US-Canadian border to Lake Roosevelt (Columbia River); SW along the eastern shore of Lake Roosevelt to the US Hwy (US) 395 bridge; W on US 395 over the bridge to the western shore of Lake Roosevelt; N on the western shore of Lake Roosevelt to the mouth of the Kettle River; N up the Kettle River (Ferry-Stevens county line) to the US-Canadian border east of the town of Laurier and the point of beginning.

**GMU 108-DOUGLAS (Stevens County):**

Beginning at the junction of US Hwy (US) 395 and State Route (SR) 20 in the town of Colville; NW on US 395 (SR 20) to the bridge over Lake Roosevelt; N up the southeastern shore of Lake Roosevelt and Columbia River to the SR 25 bridge over the Columbia River at the town of Northport; S on SR 25 to Colville-Aladdin-Northport Rd in the town of Northport; SW on the Colville-Aladdin-Northport Rd to SR 20, E of the town of Colville; W on SR 20 to US 395 at the town of Colville and point of beginning.

**GMU 111-ALADDIN (Stevens and Pend Oreille counties):**

Beginning at the junction of the Colville-Aladdin-Northport Rd and State Route (SR) 20 on the east side of Colville; N on Aladdin Rd to SR 25 at the town of Northport; N on SR 25 to the bridge over the Columbia River; NE along the southeastern shoreline of the Columbia River to the US-Canadian border; E along the US-Canadian border to the Pend Oreille River; S along the western shoreline of the Pend Oreille River to Tiger East Rd, which is due east of the town of Tiger; W on the Tiger East Rd to SR 20 at the town of Tiger; W and S on SR 20 to the junction with the Aladdin Rd, E of the town of Colville and point of beginning.

**GMU 113-SELKIRK (Pend Oreille County):**

Beginning on the western shore of the Pend Oreille River at the US-Canadian border; E on the US-Canadian border to the Washington-Idaho state line; S on the Washington-Idaho state line to the southwestern shore of the Pend Oreille River at the town of Newport; NW along the southwestern shore of the Pend Oreille River to the US-Canadian border and the point of beginning.

**GMU 117-49 DEGREES NORTH (Stevens and Pend Oreille counties):**

Beginning at junction of State Route (SR) 20 and US Hwy (US) 395 at the town of Colville; E on SR 20 to Tiger East Rd at the town of Tiger; E on Tiger East Rd to western shore of the Pend Oreille River; S along the southwestern shore of the Pend Oreille River to the Washington-Idaho state line; S along the Washington-Idaho state line to US 2 in the town of Newport; SW and S on US 2 to the Deer Park-Milan Rd; W on the Deer Park-Milan Rd to US 395 at the town of Deer

Park; NW on US 395 to its junction with SR 20 at the town of Colville and the point of the beginning.

**GMU 121-HUCKLEBERRY (Stevens County):**

Beginning at the US Hwy (US) 395 bridge over Lake Roosevelt (Columbia River) NW of the town of Kettle Falls; SE on US 395 through Colville and Chewelah to State Route (SR) 292 at Loon Lake; W on SR 292 to SR 231 at the town of Springdale; S on SR 231 to the first tributary of Chamokane Creek intersecting SR 231 south of the northeast corner of the Spokane Indian reservation; SW on the said tributary to Chamokane Creek, the northern boundary of the Spokane Indian reservation; W along the northern border of the Spokane Indian Reservation border to eastern boundary of the Colville Indian reservation on the Ferry-Stevens county line on Lake Roosevelt; N along the Colville Indian reservation boundary to its northern corner on Lake Roosevelt; W along Colville Indian reservation boundary to the western shore of Lake Roosevelt; N along western shore of Lake Roosevelt to the US 395 bridge over Lake Roosevelt northwest of the town of Kettle Falls and the point of beginning.

**GMU 124-MOUNT SPOKANE (Spokane, Stevens and Pend Oreille counties):**

Beginning at the junction of State Route (SR) 231 and SR 292 at the town of Springdale; E on SR 292 to US Hwy (US) 395 at Loon Lake; SE on US 395 to the Deer Park-Milan Rd; E on the Deer Park-Milan Rd to US 2; N and NE on US 2 to the Washington-Idaho state line at the town of Newport; S on the Washington-Idaho state line to the Spokane River; W and NW down the north shore of Spokane River to Chamokane Creek (Spokane Indian reservation boundary); N along the Chamokane Creek to the last Chamokane Creek tributary before the northeastern corner of the Spokane Indian reservation; NE up said tributary to SR 231; N on SR 231 to SR 292 at the town of Springdale and the point of beginning.

**GMU 127-MICA PEAK (Spokane County):**

Beginning at the mouth of Latah Creek (Hangman Creek) on the Spokane River; E up the south shore of the Spokane River to the Maple Street Bridge; N across the Maple Street Bridge to the north shore of the Spokane River; E on the north shore of the Spokane River to the Washington-Idaho state line; S on the Washington-Idaho state line to State Route (SR) 274 at the town of Willard; SW on SR 274 to SR 27 at the town of Tekoa; NW on SR 27 to Fairbanks Rd; W on Fairbanks Rd to Spring Valley Rd; NW on Spring Valley Rd to Dunn Rd; SW on Dunn Rd to Merritt Rd; W on Merritt Rd to US Hwy (US) 195; N on US 195 to Interstate Hwy (I)-90; E on I-90 to Latah Creek; N down Latah Creek to the Spokane River and the point of the beginning.

**GMU 130-CHENEY (Spokane and Lincoln counties):**

Beginning on the Spokane River and State Route (SR) 231; E up the north shore of the Spokane River to the Maple Street Bridge; S on the Maple Street Bridge to the south shore of the Spokane River; W on the south shore of the Spokane River to Latah Creek (Hangman Creek) in Spokane; S up Latah Creek to Interstate Hwy (I)-90; W on I-90 to US Hwy (US) 195; S on US 195 to Rosalia exit and south to Gashous Rd in the town of Rosalia; W on Gashous Rd to Squaw Rd; NW on

Squaw Rd to Blackman Rd; W on Blackman Rd to Texas Ferry Rd; S on Texas Ferry Rd to Siegel Rd; W on Siegel Rd to Belsby Rd; W on Belsby Rd to Henderson Rd; W on Henderson Rd to Mullinix Rd; N on Mullinix Rd to Reed Rd; W on Reed Rd to Spuler Rd; S on Spuler Rd to Dewey Rd; W on Dewey Rd to SR 23; NW along SR 23 to SR 231; N on SR 231 to US 2; E on US 2 to SR 231 at the town of Reardan; N along SR 231 to the Spokane River and to the point of beginning.

**GMU 133-ROOSEVELT (Lincoln County):**

Beginning at the east end of the Grand Coulee Dam at Lake Roosevelt; E along the Grant-Okanogan, Lincoln-Okanogan, Lincoln-Ferry county lines on Lake Roosevelt to the Spokane River; E up the Spokane River, following the Lincoln-Stevens county line, to State Route (SR) 231; S on SR 231 to US Hwy (US) 2 at the town of Reardan; W on US 2 to SR 21 at the town of Wilbur; N on SR 21 to SR 174; NW on SR 174 to SR 155 at the town of Grand Coulee; NE on SR 155 to the access road to the Grand Coulee Dam causeway (access restricted); E on the causeway access road to the east end of the Grand Coulee Dam at Lake Roosevelt and the point of the beginning.

**GMU 136-HARRINGTON (Lincoln and Grant counties):**

Beginning at the town of Grand Coulee at State Route (SR) 174 and Rd W NE (Grand Coulee Hill Rd); SE on SR 174 to US Hwy (US) 2 at the town of Wilbur; E on US 2 to SR 231; S on SR 231 to SR 23; S on SR 23 to Interstate Hwy (I)-90; SW on I-90 to Danekas Rd (Interstate Hwy Exit 231); W on Danekas Rd to Tokio Rd; W on Tokio Rd to Marcellus Rd; N on Marcellus Rd to Davis Rd; W on Davis Rd to Rd 12 NE; W on Rd 12 NE to Rd W NE; N on Rd W NE to Rd X NE at the town of Marlin; N on Rd X NE to Kiner Rd; NE, E, N, E, and N on Kiner Rd to US 2, east of the town of Almira; SW on US 2 to Main Rd; W on Main St to N 3rd St; N on 3rd St to Old Coulee Rd; N on Old Coulee Rd to Douglas Rd; W on Douglas Rd to Peterson Rd; N on Peterson Rd to 51 NE Rd; E on 51 NE Rd to Rd W NE; N on Rd W NE to Grand Coulee Hill Rd; N on Grand Coulee Hill Rd to SR 174 in the town of Grand Coulee and the point of the beginning.

**GMU 139-STEPTOE (Lincoln, Whitman, and Spokane counties):**

Beginning at the Washington-Idaho state line and State Route (SR) 274 at the town of Willard; W on SR 274 to SR 27 at the town of Tekoa; NW on SR 27 to Fairbanks Rd; Fairbanks Rd to Spring Valley Rd; NW on Spring Valley Rd to Dunn Rd; SW on Dunn Rd to Merritt Rd; W on Merritt Rd to the town of Rosalia; from Rosalia, W on Gashous Rd to Squaw Rd; NW on Squaw Rd to Blackman Rd; W on Blackman Rd to Texas Ferry Rd; S on Texas Ferry Rd to Siegel Rd; W on Siegel Rd to Belsby Rd; W on Belsby Rd to Henderson Rd; W on Henderson Rd to Mullinix Rd; N on Mullinix Rd to Reed Rd; W on Reed Rd to Spuler Rd; S on Spuler Rd to Dewey Rd; W on Dewey Rd to SR 23; N on SR 23 to Lamont Rd; SW on Lamont Rd to Revere Rd; S on Revere Rd to Jordan-Knott Rd; S on Jordan-Knott Rd to Rock Creek; S down Rock Creek to the Palouse River; S down the Palouse River to SR 26; E along SR 26 to US Hwy (US) 195 at the town of Colfax; S on US 195 to SR 270; E on SR 270 to Washington-

Idaho state line; N on the Washington-Idaho state line to SR 274 at the town of Willard and the point of the beginning.

**GMU 142-ALMOTA (Whitman County):**

Beginning at US Hwy (US) 195 and State Route (SR) 26 at the town of Colfax; SE on US 195 to SR 270; E on SR 270, through the town of Pullman to the Washington-Idaho state line near Moscow, Idaho; S along the Washington-Idaho state line to the Snake River (Asotin-Whitman county line), north of the town of Clarkston; W along the Snake River (Asotin-Whitman, Garfield-Whitman, and Columbia-Whitman county line) to the mouth of the Palouse River (Franklin-Whitman county line); N and E up the Palouse River (Franklin-Whitman and Whitman-Adams county lines) to SR 26, west of the town of Gordon; E on SR 26 (Washtucna-Lacrosse Hwy) to US 195 at the town of Colfax and the point of beginning.

**GMU 145-MAYVIEW (Garfield and Asotin counties):**

Beginning at the State Route (SR) 127 bridge crossing the Snake River (Whitman-Garfield county line) at Central Ferry; E along the Snake River (Whitman-Asotin and Whitman-Garfield county lines) to the mouth of Alpowa Creek; S up Alpowa Creek to the US Hwy (US) 12 bridge; W on US 12 to SR 127; N on SR 127 (Central Ferry Hwy) to the bridge crossing the Snake River (Garfield-Whitman county line) at Central Ferry and the point of beginning.

**GMU 149-PRESCOTT (Walla Walla, Columbia, and Garfield counties):**

Beginning on the Columbia River at the mouth of the Snake River (Benton-Franklin-Walla Walla county line); NE and E along the Snake River (Franklin-Walla Walla, Whitman-Columbia, and Whitman-Garfield county lines) to State Route (SR) 127 bridge at Central Ferry; S on SR 127 (Central Ferry Hwy) to US Hwy (US) 12 at Dodge Junction; SW on US 12, through the towns of Dayton and Waitsburg, to SR 125 at the town of Walla Walla; S on SR 125 to the Washington-Oregon state line; W on the Washington-Oregon state line to the Columbia River (Benton-Walla Walla county line); N along the Columbia River (Benton-Walla Walla county line) to the mouth of the Snake River and the point of beginning.

**GMU 154-BLUE CREEK (Walla Walla and Columbia counties):**

Beginning on US Hwy (US) 12 at the town of Waitsburg; NE on US 12 to Lower Hogeeye Rd at Long Station; E on Lower Hogeeye Rd to Bowman Hill Rd; SW on Bowman Hill Rd to the Payne Hollow Rd; S on the Payne Hollow Rd to Jasper Mountain Rd; S on Jasper Mountain Rd to Mt. Pleasant Rd; S on Mt. Pleasant Rd to Dent Rd; S on Dent Rd to the Lewis Peak Rd; S on the Lewis Peak Rd to Lewis Peak Trail; SE on Lewis Peak Trail to US Forest Service (USFS) Trail 3211 (Mill Creek Watershed Intake Trail); SW on USFS Trail 3211 to the Washington-Oregon state line; W on the Washington-Oregon state line to State Route (SR) 125; N on SR 125 to US 12; NE on US 12 to the town of Waitsburg and the point of beginning.

**GMU 157-MILL CREEK WATERSHED (Walla Walla and Columbia counties):**

Beginning at US Forest Service (USFS) Trail 3211 (Mill Creek Watershed Intake Trail) at the Washington-Oregon state line; NE and E on USFS Trail 3211 to USFS Rd 64; S on the USFS Rd 64 to the Washington-Oregon state line; W on the Washington-Oregon state line to USFS Trail 3211 and the point of beginning.

**GMU 162-DAYTON (Walla Walla and Columbia counties):**

Beginning at the junction of US Hwy (US) 12 and Patit Rd in the town of Dayton; E on the Patit Rd to the Hartsock Grade Rd-Maloney Mountain Rd intersection; S on Maloney Mountain Rd to US Forest Service (USFS) Rd 4625 (Maloney Mountain Rd); S and W on to USFS Rd 4625 to Skyline Drive Rd; SE on Skyline Drive Rd to USFS Rd 46 (Skyline Drive Rd); S on USFS Rd 46 to USFS Rd 64; S on USFS Rd 64 to USFS Trail 3211 (Mill Creek Watershed Intake Trail); W on USFS Trail 3211 to the Lewis Peak Trail; NW on the Lewis Peak Trail to Lewis Peak Rd; N on the Lewis Peak Rd to Dent Rd; N on Dent Rd to Mt. Pleasant Rd; N on the Mt. Pleasant Rd to the Jasper Mountain Rd; N on the Jasper Mountain Rd to Payne Hollow Rd; N on Payne Hollow Rd to Bowman Hill Rd; NE on Bowman Hill Rd to Lower Hogeeye Rd; W on Lower Hogeeye Rd to US 12 at Long Station; NE on US 12 to its junction with Patit Rd at the town of Dayton and the point of beginning.

**GMU 163-MARENGO (Columbia and Garfield counties):**

Beginning at the junction of US Hwy (US) 12 and Patit Rd in the town of Dayton; N and E on US 12 to the Tatman Mountain Rd at Zumwalt; SE on Tatman Mountain Rd to Linville Gulch Rd; S on the Linville Gulch Rd to the Blind Grade Rd; SW on the Blind Grade Rd to the Tucannon Rd; N on the Tucannon Rd to the Hartsock Grade Rd; S on the Hartsock Grade Rd to the Patit Rd; W on the Patit Rd to US 12 in the town of Dayton and the point of beginning.

**GMU 166-TUCANNON (Columbia and Garfield counties):**

Beginning at the intersection of the Hartsock Grade Rd and the Tucannon Rd; SE on the Tucannon Rd to the elk drift fence at the northern boundary of the W.T. Wooten Wildlife Area; E and S along the elk drift fence to the US Forest Service (USFS) Rd 40 (Mountain Rd) at the Umatilla National Forest's northern boundary; S on the USFS Rd 40 to USFS Rd 4030 (Diamond Peak Rd); W on USFS Rd 4030 to USFS Trail 3113 (Diamond Peak Trail-Bullfrog Springs Trail-Oregon Butte Trail) at Diamond Peak; W on USFS Trail 3113 to USFS Trail 3136 (Teepee Trail); W along USFS Trail 3136 to USFS Rd 4608 (Teepee Rd) at Teepee Camp; W on the USFS Rd 4608 to USFS Rd 46 (Skyline Drive Rd); N on the USFS Rd 46 to Skyline Drive Rd; N on Skyline Drive Rd to the Maloney Mountain Rd; W on Maloney Mountain Rd to USFS Rd 4625 (Maloney Mountain Rd); E and N on the USFS Rd 4625 (Maloney Mountain Rd) to the Hartsock Grade Rd; N on the Hartsock Grade Rd to the Tucannon Rd and the point of the beginning.

**GMU 169-WENAHA (Columbia, Garfield and Asotin counties):**

Beginning on the Washington-Oregon state line at the US Forest Service (USFS) Rd 64; N on USFS Rd 64 to USFS Rd 46 (Skyline Dr); E on USFS Rd 46 to USFS Rd 4608 (Teepee Rd) at Godman Springs; E on USFS Rd 4608 to USFS Trail 3136 (Teepee Trail) at Teepee Camp; E on the USFS Trail 3136 to USFS Trail 3113 (Oregon Butte Trail-Bullfrog Springs Trail-Diamond Peak Trail); E on USFS Trail 3113 to USFS Rd 4030 (Diamond Peak Rd) at Diamond Peak; E on USFS Rd 4030 to USFS Rd 40 (Mountain Rd); S along USFS Rd 40 to USFS Rd 4039 (South Boundary Rd); SW along USFS Rd 4039 to USFS Trail 3133 (Three Forks Trail); NW on USFS Trail 3133 to USFS Trail 3100; S on USFS Trail 3100 to the Washington-Oregon state line; due W on the Washington-Oregon state line to USFS Rd 64 and the point of beginning.

**GMU 172-MOUNTAIN VIEW (Garfield and Asotin counties):**

Beginning on the Washington-Oregon state line at US Forest Service (USFS) Trail 3100; N on USFS Trail 3100 to USFS Trail 3133 (Three Forks Trail); SE on USFS Trail 3133 (Three Forks Trail) to USFS Rd 4039 (South Boundary Rd); NE on USFS Rd 4039 to USFS Rd 40 (Mountain Rd); N on USFS Rd 40 to USFS Rd 44 (Mount Misery-Big Butte Rd) at Misery junction; E on USFS Rd 44 to USFS Rd 43; E on USFS Rd 43 to USFS Rd 4304; E on USFS Rd 4304 to West Mountain Rd; NE on the West Mountain Rd to Bennett Ridge Rd; N on Bennett Ridge Rd to Mill Rd; E on Mill Rd to State Route (SR) 129 at the town of Anatone; SW on SR 129 to the Washington-Oregon state line; due W on the Washington-Oregon state line to USFS Trail 3100 and the point of beginning.

**GMU 175-LICK CREEK (Garfield and Asotin counties):**

Beginning at the intersection of US Forest Service (USFS) Rd 40 (Mountain Rd) and the elk drift fence on the Umatilla National Forest's northern boundary; E along the elk drift fence to its end at the eastern border section line of Section 2, T9N, R43E; due S from the end to the elk drift fence on section line of Section 2, T9N, R43E to Charley Creek; E down Charley Creek to Asotin Creek; S down Asotin Creek to the South Fork Asotin Creek Rd; S up the South Fork Asotin Creek Rd to Campbell Grade Rd; E on the Campbell Grade Rd to Parsons Rd (Back Rd); S on Parsons Rd (Back Rd) to the Cloverland Rd; S on Cloverland Rd to its junction with the Umatilla National Forest's eastern boundary fence; E and S on the USFS boundary fence past Big Butte to USFS Rd 4303 (Big Butte Rd-Mount Misery Rd); W on USFS Rd 4304 to USFS Rd 43; W on USFS Rd 43 to USFS Rd 44; W on USFS Rd 44 to USFS Rd 40 (Mountain Rd) at Misery junction; NW on USFS Rd 40 (Mountain Rd) to the intersection with the elk drift fence on the Umatilla National Forest's northern boundary and the point of beginning.

**GMU 178-PEOLA (Garfield and Asotin counties):**

Beginning at the intersection of US Hwy (US) 12 and Tatman Mountain Rd at Zumwalt; E on US 12 to bridge near the mouth of Alpowa Creek; N down Alpowa Creek to the Snake River; E and S along the Snake River (Asotin-Whitman county line, Washington-Idaho state line) to the mouth of

Asotin Creek; W along Asotin Creek to Charley Creek; W along Charley Creek to the unit boundary marker at the eastern border section line of Section 2, T9N, R43E; N on eastern border section line of Section 2, T9N, R43E to end of the elk drift fence; W along the elk drift fence to the boundary of the W.T. Wooten Wildlife Area; NW and W along the elk drift fence to the Tucannon Rd; N on the Tucannon Rd to Blind Grade Rd; NE up Blind Grade Rd to the Linville Gulch Rd; N on the Linville Gulch Rd to Tatman Mountain Rd; NW up Tatman Mountain Rd to US 12 at Zumwalt and the point of beginning.

**GMU 181-COUSE (Asotin County):**

Beginning at the mouth of Asotin Creek on the Snake River at the town of Asotin; S along the Snake River (Washington-Idaho state line) to the Grande Ronde River; W along the north shore of Grande Ronde River to State Route (SR) 129; NW on SR 129 to Mill Rd in the town of Anatone; W on Mill Rd to Bennett Ridge Rd; S and W on Bennett Ridge Rd to West Mountain Rd; SW on West Mountain Rd to Umatilla National Forest eastern boundary fence at Big Butte; N along the Umatilla National Forest boundary fence to Cloverland Rd; NE on Cloverland Rd to the first, southernmost intersection with Parsons Rd (Back Rd); N on Parsons Rd (Back Rd) to Campbell Grade Rd; W on the Campbell Grade Rd to South Fork Asotin Creek Rd; NE on South Fork Asotin Creek Rd to Asotin Creek; NE down Asotin Creek to the Snake River at the town of Asotin and the point of beginning.

**GMU 186-GRANDE RONDE (Asotin County):**

Beginning on the Washington-Oregon state line and State Route (SR) 129; N on SR 129 to the Grande Ronde River; E along the north shore of the Grande Ronde River to the Snake River (Washington-Idaho state line); S along the Snake River (Washington-Idaho state line) to the Washington-Oregon state line; W on the Washington-Oregon state line to SR 129 and the point of beginning.

AMENDATORY SECTION (Amending WSR 18-11-061, filed 5/11/18, effective 6/11/18)

**WAC 220-415-040 Elk area descriptions.**

The following areas are defined as elk areas:

**Elk Area No. 1008 West Wenaha (Columbia County):**

That part of GMU 169 west of USFS trail 3112 from Teepee Camp (east fork of Butte Creek) to Butte Creek, and west of Butte Creek to the Washington-Oregon state line.

**Elk Area No. 1009 East Wenaha (Columbia, Garfield, Asotin counties):**

That portion of GMU 169 east of USFS trail 3112 from Teepee Camp (east fork Butte Creek) to Butte Creek, and east of Butte Creek to the Washington-Oregon state line.

**Elk Area No. 1010 (Columbia County):**

GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

**Elk Area No. 1011 (Columbia County):**

That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

**Elk Area No. 1012 (Columbia County):** That part of GMU 162 west of the North Touchet Road, excluding National Forest land and the Rainwater Wildlife Area.

**Elk Area No. 1013 (Asotin County):** GMU 172, excluding National Forest lands and the 4-O Ranch Wildlife Area.

**Elk Area No. 1015 Turnbull (Spokane County):** Located in GMU 130, designated areas within the boundaries of Turnbull National Wildlife Refuge.

**Elk Area No. 1016 (Columbia County):** GMU-162 Dayton, excluding the Rainwater Wildlife Area.

**Elk Area No. 1040 (Asotin County):** That area within GMU 172 designated as the WDFW-owned lands managed as the 4-O Ranch Wildlife Area.

**Elk Area No. 1075 (Asotin County):** Private land (excluding WDFW lands) within GMU 175 within the following area: From the intersection of the South Fork Asotin Creek Rd and Campbell Grade Rd, continuing south until the South Fork Asotin Creek Rd crosses the South Fork of Asotin Creek. South along the South Fork of Asotin Creek until it intersects with the USFS property line, due south along the USFS boundary until it reaches the Cloverland Rd. NE along the Cloverland Rd to the intersection of the Parsons Rd (Back Rd), north along the Parsons Rd (Back Rd) to Campbell Grade Rd, west on Campbell Grade Rd to the intersection with South Fork Asotin Creek Rd and the point of beginning.

**Elk Area No. 1081 (Asotin County):** All of GMU 181 Couse, including the portion of GMU 172 starting at the intersection of Mill Road and Highway 129 in Anatone, south along Hwy 129 to Smyth Rd, west and then north on Smyth Rd to the intersection of E Mountain Rd, west along E Mountain Rd to the intersection of W Mountain Rd, north along W Mountain Rd to Mill Road, east on Mill Rd to the starting point.

**Elk Area No. 1082 George Creek (Asotin County):** That portion of GMU 181 owned by WDFW and designated as the George Creek Wildlife Unit of the Asotin Creek Wildlife Area.

**Elk Area No. 2032 Malaga (Kittitas and Chelan counties):** Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee

Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

**Elk Area No. 2033 Peshastin (Chelan County):** Starting at the Division St bridge over the Wenatchee River in the town of Cashmere; S on Aplets Way then Division St to Pioneer St; W on Pioneer St to Mission Creek Rd; S on Mission Creek Rd to Binder Rd; W on Binder Rd to Mission Creek Rd; S on Mission Creek Rd to Tripp Canyon Rd; W on Tripp Canyon Rd to where Tripp Canyon Rd stops following Tripp Creek; W on Tripp Creek to its headwaters; W up the drainage, about 1000 feet, to US Forest Service (USFS) Rd 7200-160; W on USFS Rd 7200-160 to Camas Creek Rd (USFS Rd 7200); W on Camas Creek Rd (USFS 7200 Rd) (excluding Camas Land firearm closure\*) to US Hwy 97; N on US Hwy 97 to Mountain Home Rd (USFS 7300 Rd); N on Mountain Home Rd to the Wenatchee River in the town of Leavenworth; S on the Wenatchee River to the Division St bridge in Cashmere and the point of beginning.

**Elk Area No. 2051 Tronsen (Chelan County):** All of GMU 251 except that portion described as follows: Beginning at the junction of Naneum Ridge Road (WDFW Rd 9) and Ingersol Road (WDFW Rd 1); north and east on Ingersol Road to Colockum Road (WDFW Rd 10); east on Colockum Road and Colockum Creek to the intersection of Colockum Creek and the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd 14) and North Fork Road (WDFW Rd 10.10) to the intersection of North Fork Road and Colockum Road; southwest on Colockum Road to Naneum Ridge Road; west on Naneum Ridge Road to Ingersol Road and the point of beginning.

**Elk Area No. 3681 Ahtanum (Yakima County):** That part of GMU 368 beginning at the power line crossing on Ahtanum Creek in T12N, R16E, Section 15; west up Ahtanum Creek to South Fork Ahtanum Creek; southwest up South Fork Ahtanum Creek to its junction with Reservation Creek; southwest up Reservation Creek and the Yakama Indian Reservation boundary to the main divide between the Diamond Fork drainage and Ahtanum Creek drainage; north along the crest of the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to Darland Mountain; northeast on US Forest Service Trail 615 to US Forest Service Road 1020; northeast on US Forest Service Road 1020 to US Forest Service Road 613; northeast on US Forest Service Road 613 to US Forest Service Trail 1127; northeast on US Forest Service Trail 1127 to US Forest Service Road 1302 (Jump Off Road), southeast of the Jump Off Lookout Station; northeast on US Forest Service Road 1302 (Jump Off Road) to Highway 12; northeast on Highway 12 to the Naches River; southeast down the Naches River to Cowiche Creek; west up Cowiche Creek and South Fork Cowiche

Creek to Summitview Avenue; northwest on Summitview Avenue to Cowiche Mill Road; west on Cowiche Mill Road to the power line in the northeast corner of T13N, R15E, SEC 13; southeast along the power line to Ahtanum Creek and the point of beginning.

**Elk Area No. 3721 Corral Canyon (Benton and Yakima counties):** That part of GMU 372 beginning at the Yakima River Bridge on SR 241 just north of Mabton; north along SR 241 to the Rattlesnake Ridge Road (mile post #19); east on Rattlesnake Ridge Road to the Hanford Reach National Monument's (HRNM) southwest corner boundary; east and south along the HRNM boundary to SR 225; south on SR 225 to the Yakima River Bridge in Benton City; west (upstream) along Yakima River to point of beginning (SR 241 Bridge).

**Elk Area No. 3722 Blackrock (Benton and Yakima counties):** That part of GMU 372 beginning at southern corner of the Yakima Training Center border on Columbia River, northwest of Priest Rapids Dam; southeast on southern shore of Columbia River (Priest Rapids Lake) to Priest Rapids Dam; east along Columbia River to the Hanford Reach National Monument's (HRNM) western boundary; south along the HRNM boundary to the Rattlesnake Ridge Road; west on Rattlesnake Ridge Road to SR 241; south on SR 241 to the Yakima River Bridge just north of Mabton; west along Yakima River to SR 823 (Harrison Road) south of town of Pomona; east along SR 823 (Harrison Road) to SR 821; southeast on SR 821 to Firing Center Road at I-82; east on Firing Center Road to main gate of Yakima Training Center; south and east along Yakima Training Center boundary to southern corner of Yakima Training Center boundary on Columbia River and point of beginning.

**Elk Area No. 3911 Fairview (Kittitas County):** Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and Interstate 90; east along the power lines to Highway 903 (Salmon La Sac Road); northwest along Highway 903 to Pennsylvania Avenue; northeast along Pennsylvania Avenue to No. 6 Canyon Road; northeast along No. 6 Canyon Road to Cle Elum Ridge Road; north along Cle Elum Ridge Road to Carlson Canyon Road; northeast along Carlson Canyon Road to West Fork Teanaway River; east along West Fork Teanaway River to North Fork Teanaway River; north along North Fork Teanaway River to Teanaway Road; southeast on Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and Swauk Prairie Road to Hwy 970; northeast on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east along BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umtanum Road; north on Umtanum Road

to South Branch Canal; west on South Branch Canal to Bradshaw/Hanson Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to Big Creek; north on Big Creek to Nelson Siding Road; west and north on Nelson Siding Road to I-90; east on I-90 to point of beginning.

**Elk Area No. 3912 Old Naches (Yakima County):** Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the big-horn sheep feeding site in T15N, R16E, Section 36; south on the feeding site access road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the intersection of the metal footbridge and the elk fence at the south end of the bridge in T14N, R16E, Section 3; south along the elk fence to the top of the cliff/rimrock line; southwest along the top of the cliff/rimrock line to the irrigation canal in T14N, R16E, Section 9; southwest along the irrigation canal to the elk fence in T14N, R16E, Section 8; south along the elk fence to the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; downstream along the South Fork Ahtanum Creek and Ahtanum Creek to the Yakima River; upstream along the Yakima River to Roza Canal and point of beginning.

**Elk Area No. 4601 North Bend (King County):** That portion of GMU 460 beginning at the interchange of State Route (SR) 18 and I-90; W on I-90 to SE 82nd St, Exit 22, at the town of Preston; N on SE 82nd Street to Preston Fall City Rd SE (Old SR 203); N on Preston Fall City Rd SE to SE Fall City Snoqualmie Rd (SR 202) at the town of Fall City; E on SE Fall City Snoqualmie Rd to the crossing of Tokul Creek; N and E up Tokul Creek to its crossing with Tokul Rd SE; S on SE Tokul Rd to SE 53rd Way; E on SE 53rd Way where it turns into 396th Dr SE then S on 396th Dr SE to SE Reinig Rd; E on SE Reinig Rd to 428th Ave SE; N on 428th Ave SE to where it turns into North Fork Rd SE; N and E on North Fork Rd SE to Ernie's Grove Rd; E on Ernie's Grove Rd to SE 70th St; N on SE 70th St to its ends at Fantastic Falls on the North Fork Snoqualmie River; SW down the North Fork Snoqualmie River to Fantastic Falls and the Mt Si Natural Resource Conservation Area boundary then S and E along the southern boundary of the Mt Si NRCA to the "School Bus" turnaround at SE 114th St; S on 480th Ave SE to SE 130th St; S and E on SE 130th St to its end; SSE overland from the end of SE 130th St, over the Middle Fork Snoqualmie River, to the end of 486th Ave SE; S on 486th Ave SE to the intersection with SE Middle Fork Road; Due S, from said intersection, up Grouse Mountain toward its peak, to the logging road adjacent to Grouse Mountain Peak; S down the logging road to Grouse Ridge Access Rd; W on Grouse Ridge Access Road which becomes SE 146th St; W on SE 146th St to I-90 then east along I-90 to the W boundary of Olallie/Twin Falls State Park; then along the westerly and northerly boundaries of Olallie/Twin Falls/Iron Horse state parks to the boundary of the Rattlesnake Lake Recreation Area; W along the boundary of the Rattlesnake Lake Recre-

ation Area to Cedar Falls Rd SE; N along the Cedar Falls Rd to SE 174th Way; W on SE 174th Way to SE 174th St; W on SE 174th St to SE 173rd St; W on SE 173rd St to SE 170th Pl; W on SE 170th Pl to SE 169th St; W on SE 169th St to 424th Ave SE; N on 424th Ave SE to SE 168th St; W on SE 168th St to 422 Ave SE; N on 422 Ave SE to 426th Way SE; S on 426th Way SE to SE 164th St; E on SE 164th St to Uplands Way SE; W on Uplands Way SE to the crossing with the Power Transmission Lines; W along the Power Transmission Lines to the Winery Rd; NW on the Winery Rd to SE 99th Rd; W and N on SE 99th Rd to the I-90 interchange, at Exit 27; SW on I-90 to the interchange with SR 18 and the point of beginning.

**Elk Area No. 4941 Skagit River (Skagit County):** That portion of GMU 437 beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Concrete-Sauk Valley Road; south on Concrete-Sauk Valley Road over The Dalles Bridge (Skagit River) to the intersection with the South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 and the point of beginning.

**Elk Area No. 5029 Toledo (Lewis and Cowlitz counties):** Beginning at the Cowlitz River and State Highway 505 junction; east along the Cowlitz River to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to Cedar Creek Road; east along Cedar Creek Road to Due Road; south on Due Road to Weyerhaeuser 1823 Road; south along Weyerhaeuser 1823 Road to the Weyerhaeuser 1945 Road; south along the Weyerhaeuser 1945 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River; west along the North Fork Toutle River to the Toutle River; west on the Toutle River to the Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

**Elk Area No. 5049 Ethel (Lewis County):** That part of GMU 505 beginning at the intersection of Jackson Highway and Highway 12; south along Jackson Highway to Buckley Road; south on Buckley Road to Spencer Road; east on Spencer Road to Fuller Road; north on Fuller Road to Highway 12; east on Highway 12 to Stowell Road; north on Stowell Road to Gore Road; west on Gore Road to Larmon Road; west on Larmon Road to Highway 12; west on Highway 12 to Jackson Highway and point of beginning.

**Elk Area No. 5050 Newaukum (Lewis County):** That part of GMU 505 beginning at the intersection of Interstate 5 and Highway 12; east on Highway 12 to Larmon Road; east on Larmon Road to Leonard Road; north on Leonard Road through the town of Onalaska to Deggler Road; north on Deggler Road to Middle Fork Road; east on Middle Fork Road to Beck Road; north on Beck Road to Centralia-Alpha Road; west on Centralia-Alpha Road to Logan Hill Road; south then west on Logan Hill Road to Jackson Highway; south on Jackson Highway to the Newaukum River; west along the Newaukum River to Interstate 5; south on Interstate 5 to Highway 12 and point of beginning.

**Elk Area No. 5051 Green Mountain (Cowlitz County):** Beginning at the junction of the Cowlitz River and the Toutle

River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser 4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser 4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

**Elk Area No. 5052 Mossyrock (Lewis County):** Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

**Elk Area No. 5053 Randle (Lewis County):** Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

**Elk Area No. 5054 Boistfort (Lewis County):** Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town

of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

**Elk Area No. 5056 Grays River Valley (Wahkiakum County):** That area in GMU 506 on or within 1.5 miles of agricultural land in the Grays River Valley and Eden Valley within the following sections: T11N, R08W, Section 36; T11N, R07W, Sections 31, 32, 33; T10N, R7W, Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 28, 29, 30, 31, 32; T10N, R8W, Sections 1, 2, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36; T09N, R08W, Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 15; T09N, R07W, Sections 5, 6, 7, 8.

**Elk Area No. 5057 Carlton (Lewis County):** That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

**Elk Area No. 5058 West Goat Rocks (Lewis County):** Goat Rocks Wilderness west of the Pacific Crest Trail.

**Elk Area No. 5059 Mt. Adams Wilderness (Skamania and Yakima counties):** The Mt. Adams Wilderness.

**Elk Area No. 5060 Merwin (Cowlitz County):** Begin at the State Route 503 and the Longview Fibre Road WS-8000 junction; north and west on the Longview Fibre Road WS-8000 to Day Place Road; west on Day Place Road to Dubois Road; south on Dubois Road to State Route 503; east on State Route 503 to the State Route 503 and the Longview Fibre Road WS-8000 junction and point of beginning.

**Elk Area No. 5061 Wildwood (Lewis County):** Beginning at the junction of the Pacific West Timber (PWT) 600 Road and the Wildwood Road (SE1/4 S29 T11N R3W); southwest on the 600 Road to the 800 Road (NW1/4 S36 T11N R4W); southwest on the 800 Road to the 850 Road (SW1/4 S3 T10N R4W); northwest on the 850 Road to the Weyerhaeuser 4720 Road (S20 T11N R4W); north on the Weyerhaeuser 4720 Road to the Weyerhaeuser 4700 Road (S17 T11N R4W); east on the Weyerhaeuser 4700 Road to the Weyerhaeuser 5822 Road (NW1/4 S16 T11N R4W); east on the Weyerhaeuser 5822 Road to the Weyerhaeuser 5820 Road (NW1/4 S10 T11N R4W); southeast on the Weyerhaeuser 5820 Road to the PWT 574 Road (SE1/4 S10 T11N R4W); south on the PWT 574 Road to the 570 Road (NW1/4 S14 T11N R4W); south on the 570 Road to the 500 Road (NW1/4 S14 T11N R4W); northeast on the 500 Road to the 560 Road (SW1/4 S12 T11N R4W); east on the 560 Road to the 540 Road (SE1/4 S12 T11N R4W); east and south on the 540 Road to the 500 Road (SE1/4 S18 T11N R3W); east on the PWT 500 Road to the Wildwood Road (N1/2 S20 T11N R3W); south on the Wildwood Road to the point of beginning, the PWT 600 Road junction (SE1/4 S29 T11N R3W).

**Elk Area No. 5062 Trout Lake (Klickitat County):** Those portions of GMU 578 (West Klickitat) beginning at the intersection of SR 141 and Sunnyside Road; north on Sunnyside Road to Mount Adams Recreational Area Road; (including agricultural land on the Trout Lake Valley floor north of Sunnyside Road within T06N R10E in Sections 13 and 14); south

on Mount Adams Recreational Area Road to the intersection of SR 141 and south on SR 141 and Sunnyside Road to the point of beginning.

**Elk Area No. 5063 Pumice Plain (Cowlitz and Skamania counties):** That part of GMU 522 beginning at the confluence of the N. Fork Toutle River and Castle Creek; East along the N. Fork Toutle River to USFS trail 207; south along USFS trail 207 to USFS trail 216E; southwest along USFS trail 216E to USFS trail 216; west along USGS trail 216 to USGS 216G; northwest along USFS trail 216G to USGS trail 221; north along USFS 221 to Castle Creek; northwest along Castle Creek to N. Fork Toutle River and point of beginning.

**Elk Area No. 5064 Upper Smith Creek (Skamania County):** That part of GMU 522 beginning at the U.S. Forest Service Rd. 99 and U.S. Forest Service Trail 225 (Smith Creek Trail) junction; south on Trail 225 to Ape Canyon Creek; south and west up Ape Canyon Creek to U.S. Forest Service Trail 216 (Loowit Trail); north on Trail 216 to U.S. Forest Service Trail 216D (Abraham Trail); north on Trail 216D to U.S. Forest Service Trail 207 (Truman Trail); north and east on Trail 207 to U.S. Forest Service Rd. 99; north and east on U.S. Forest Service Rd. 99 to the junction of U.S. Forest Service Rd. 99 and U.S. Forest Service Trail 225 and the point of beginning.

**Elk Area No. 5065 Mount Whittier (Skamania County):** That part of GMU 522 beginning at the U.S. Forest Service Trail 1 (Boundary Trail) and U.S. Forest Service Trail 214 (Whittier Ridge Trail) junction; west on the U.S. Forest Service Trail 1 to U.S. Forest Service Trail 230 (Coldwater Trail); north on U.S. Forest Service Trail 230 to U.S. Forest Service Trail 211 (Lakes Trail); east on Trail 211 to U.S. Forest Service Trail 214; south on U.S. Forest Service Trail 214 to the junction of U.S. Forest Service Trail 214 and U.S. Forest Service Trail 1 and the point of beginning.

**Elk Area No. 5066 Norway Pass (Lewis and Skamania counties):** That part of GMU 524 beginning at the U.S. Forest Service (USFS) Trail 211 (Lakes Trail) and USFS Trail 230 (Coldwater Trail) junction; NE to Minnie Peak; W to the USFS property boundary in the SE 1/4 of Section 20, T10N, R5E; N along the USFS property boundary to the Green River; E up the Green River to the USFS Rd 2612; E on the USFS Rd 2612 to USFS Rd 26; S on USFS Rd 26 to USFS Trail 1 (Boundary Trail); W on USFS Trail 1 to USFS Trail 214 (Whittier Trail); N on USFS Trail 214 to USFS Trail 211 (Lakes Trail); W on USFS Trail 211 to the USFS Trail 211, Trail 230 junction and point of beginning.

**Elk Area No. 5090 JBH (Wahkiakum County):** The mainland portion of the Julia Butler Hansen National Wildlife Refuge, as administered by the U.S. Fish and Wildlife Service as described: Beginning at the junction of State Route 4 and Steamboat Island Slough Road, northwest on Steamboat Island Slough Road to Brooks Slough Road, east on Brooks Slough Road to State Route 4, south on State Route 4 to Steamboat Slough Road and point of beginning.

**Elk Area No. 5099 Mudflow (Cowlitz County):** That part of GMU 522 beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; SE up the North Fork Toutle River

to Deer Creek; SE up Deer Creek to Rd 3020; NW along 3020 to Rd 3000; E along Rd 3000 to US Forest Service (USFS) Trail 216G; SE along USFS Trail 216G to USFS Trail 221 (Castle Lake Trail); N on USFS Trail 221 to Castle Creek; N along Castle Creek to the confluence with the North Fork Toutle River; W down the North Fork Toutle River to the North Fork Toutle River, Coldwater Creek confluence; North from the North Fork Toutle River, Coldwater Creek confluence on unnamed ridgeline, to Castle Lake viewpoint on SR 504; W on SR 504 to Hoffstadt Creek Bridge on Hoffstadt Creek; S and W down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

**Elk Area No. 6010 Mallis (Pacific County):** That part of GMUs 506, 672, and 673 within one and one-half mile either side of SR 6 between the east end of Elk Prairie Rd and the Mallis Landing Rd, and all lands within a half mile of Elk Creek Rd bounded on the south by Monohon Landing Rd.

**Elk Area No. 6011 Centralia Mine (Lewis County):** That portion of GMU 667 within Centralia Mine property boundary.

**Elk Area No. 6013 (Pierce County):** That part of GMU 652 beginning at the intersection of Highway 167 and Highway 410; north on Highway 167 to Highway 18; east on Highway 18 to Highway 164; southeasterly on Highway 164 to intersection with power transmission line in T20 R6 Section 18. West along power transmission line to intersection with 226th Ave E. South on 226th Ave East to intersection with 40th St E, east on 40th St E to 230th Ave E, South on 230th Ave E to Radke Road. Southwest on Radke to Barkubine Road, South on Barkubine Road to Connells Prairie; West on Connells Prairie Rd to 214th Ave E, South on 214th Ave E to Highway 410; westerly on Highway 410 to Highway 167 and the point of beginning.

**Elk Area No. 6014 (Pierce County):** Starting at Highway 164 intersection with power transmission line in T20 R6 Section 18; W along power transmission line to intersection with 226th Ave E; S on 226th Ave E to intersection with 40th St E; E on 40th St E to 230th Ave E; S on 230th Ave E to Radke Rd; SW on Radke to Barkubine Rd; S on Barkubine Rd to Connells Prairie; W on Connells Prairie Rd to 214th Ave E; S on 214th Ave E to South Prairie Rd; SE on South Prairie Rd to Highway 162; E on Hwy 162 to Hwy 165; S on Hwy 165 to the power transmission lines at T19 R6 Section 21, NE along the power transmission lines to the White River, N along the White River to the power transmission lines at T19 R7E; NE on power transmission lines to intersection with Hwy 410 West on SR 410 to Hwy 164; NW on Hwy 164 to starting point.

**Elk Area No. 6054 Puyallup River (Pierce County):** That portion of GMU 654 beginning at the intersection of Mount Rainier National Park's western boundary and State Route (SR) 706; W on SR 706 to intersection with Highway 7 at Elbe; NW on Highway 7 to Alder Cutoff Rd; N on Alder Cutoff Rd to Scott Turner Rd; NW on Scott Turner Rd to Alder Cutoff Rd; W and NE on Alder Cutoff Rd to Center St SE in the town of Eatonville; NW on Center St SE to SR 161; N and W on SR 161 to Orville Rd E; N on Orville Rd E, past Lake

Ohop and Lake Kapowsin, to the bridge crossing the Puyallup River; SE up the Puyallup River to Mount Rainier National Park's western boundary; S on Mount Rainier National Park's western boundary to SR 706 and the point of beginning.

**Elk Area No. 6061 Twin Satsop Farms (Mason County):** That portion of GMU 651 starting at the junction of the Deckerville Road and the Brady-Matlock Road; southwest to the junction with the West Boundary Road; north on West Boundary Road to the Deckerville Road; east on the Deckerville Road to the junction of Brady-Matlock Road and point of beginning. In addition, the area within a circle with a radius of two miles centered on the junction of State Route 108 and the Eich Road.

**Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties):** That portion of GMU 638 (Quinault) within the Quinault River watershed east of Gattion Creek and Lake Quinault excluding US Forest Service (USFS) Colonel Bob Wilderness Area beginning at the mouth of the Quinault River; NE on the Olympic National Park boundary, which is along the Quinault River, to the intersection with USFS Colonel Bob Wilderness Area; then SW along the Colonel Bob Wilderness Area Western boundary to its intersection with Haas Creek; then downstream along Haas Creek to its intersection with USFS Olympic National Forest boundary; then SW along USFS boundary to the Lake Quinault shoreline; then N along the East shore of Lake Quinault to the mouth of Quinault River and the point of the beginning.

**Elk Area No. 6069 Hanaford (Lewis and Thurston counties):** That part of GMU 667 (Skookumchuck) beginning at the intersection of Salzer Valley Rd and S Pearl St (Centralia); N on S Pearl St to N Pearl St; N on N Pearl St to State Hwy 507; W and N on State Hwy 507 to Skookumchuck Rd; E on Skookumchuck Rd to the first bridge over the Skookumchuck River; E along the Skookumchuck River to the Skookumchuck Rd bridge; E on Skookumchuck Rd to the steel tower power line; SW along the power line to Big Hanaford Rd; E and S along Big Hanaford Rd to the intersection with the main stem of Hanaford Creek; SE along Hanaford Creek to the range line between Range 1W and Range 1E of Township 14N; S on the range line between Range 1W and Range 1E of Township 14N to Mitchell Creek; SW on Mitchell Creek to the North Fork of the Newaukum River; SW on the North Fork of the Newaukum River to North Fork Rd; W on North Fork Rd to Centralia-Alpha Rd; W on Centralia-Alpha Rd to Salzer Valley Rd and the point of beginning.

**Elk Area No. 6071 Dungeness (Clallam County):** Portions of GMUs 621 (Olympic) and 624 (Coyle) beginning at the mouth of the Dungeness River; east and south along the coast of the Strait of Juan de Fuca to the mouth of Dean Creek on Sequim Bay; south and west up Dean Creek to the power transmission line; west on the power transmission line to the Dungeness River; north down the Dungeness River to its mouth and the point of beginning.

**Elk Area No. 6612 Forks (Clallam County):** That part of GMUs 607 and 612 excluding the city of Forks and Bogachiel state park; starting at the confluence of Calawah

River and the Bogachiel River; upstream on the Bogachiel River to the Hwy 101 Bridge north along Hwy 101 to Sportsman Club Rd; E on Sportsman Club Rd to DNR FR-F-1000; E on DNR FR-F-1000 to DNR FR-F-1200; N on DNR FR-F-1200 to its end; from the end of DNR FR-F-1200 N approximately 500' to Elk Creek; down Elk Creek to its confluence with the Calawah River; down the Calawah River to its confluence with the Bogachiel River.

**WSR 18-19-004**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-232—Filed September 7, 2018, 8:15 a.m., effective October 8, 2018]

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

Purpose: Update WAC 220-351-080; this WAC includes fees for the combination guide license that are no longer valid for license year 2019. These fees were updated in SB [SSB] 6317 effective January 1, 2019.

Citation of Rules Affected by this Order: Amending WAC 220-351-080 Combined fish guide license.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130, 77.65.370, 77.65.440, 77.65.480.

Other Authority: RCW 77.65.440, 77.65.480.

Adopted under notice filed as WSR 18-13-010 on June 7, 2018.

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 the Request of a Non-governmental 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 0.

Date Adopted: September 6, 2018.

Kelly Susewind  
Director

**AMENDATORY SECTION** (Amending WSR 18-08-057, filed 3/30/18, effective 4/30/18)

**WAC 220-351-080 Combined fish guide license.** A combined fish guide license allows the holder to offer or perform the services of a food fish guide and a game fish guide. The fee for a resident combined fish guide license is (~~(\$815)~~) **\$640** and the fee for a nonresident combined fish guide license is (~~(\$1,045)~~) **\$1,490**. The application fee and surcharge for regional fishery enhancement groups as required

by RCW 77.95.090 are included in the overall cost of the combined fish guide license.

**WSR 18-19-007**  
**PERMANENT RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed September 7, 2018, 9:26 a.m., effective October 8, 2018]

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

Purpose: To clarify when educational employees qualify for unemployment insurance benefits within and between academic terms by laying out more specific guidelines when an educational employee has a contract or reasonable assurance for future work; addressing when educational employees work for more than one employer; and explaining the impact of voluntary quits for educational employees that have a contract or reasonable assurance for future work.

Citation of Rules Affected by this Order: New WAC 192-210-055 and 192-210-060; repealing WAC 192-210-020; and amending WAC 192-210-001, 192-210-005, 192-210-010, 192-210-015, and 192-210-045.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Other Authority: RCW 50.44.050, 50.44.053, 50.44.055.

Adopted under notice filed as WSR 18-16-061 on July 26, 2018.

Changes Other than Editing from Proposed to Adopted Version: The proposed rule defines educational institution to include "any public or private preschool, elementary school, secondary school, technical or vocational school, community college, college, and university." The final rule defines educational institution to include "any public or private preschool, elementary school, secondary school, technical or vocational school, community or technical college, college, and university." This change was made based on stakeholder feedback stating it was unclear whether the proposed definition of educational institution included technical colleges.

The final rule also adjusted some of the subsection numbering under WAC 192-210-015(4) to resolve a potential ambiguity regarding the criteria for when an educational employee has reasonable assurance.

A final cost-benefit analysis is available by contacting Scott E. Michael, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-902-9587, fax 360-902-9662, TTY relay 711, email [rules@esd.wa.gov](mailto:rules@esd.wa.gov), web site <https://www.esd.wa.gov/newsroom/UI-rule-making/reasonable-assurance>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 5, Repealed 1; Federal Rules or Standards: New 2, Amended 5, Repealed 1; or Recently Enacted State Statutes: New 2, Amended 5, Repealed 1.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, 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: September 7, 2018.

Daniel Zeitlin  
Director of  
Employment System Policy

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

**WAC 192-210-001 Which ~~((educational employees are))~~ employment is subject to RCW 50.44.050?** (1) ~~((Except as provided in subsection (2) of this section,))~~ The provisions of RCW 50.44.050 apply only to ~~((services performed in the employ of an))~~ educational institutions or ~~((institution of higher education))~~ educational service districts operated by:

- (a) The state;
- (b) A political subdivision of the state;
- (c) A nonprofit organization or unit; or
- (d) An Indian tribe.

(2) The provisions of RCW 50.44.050 apply to services performed either:

- (a) In the employ of an educational institution; or
- (b) In any educational institution while in the employ of an educational service district established pursuant to chapter 28A.310 RCW.

(3)(a) The provisions of RCW 50.44.050 do not apply if you are employed by a subsidiary business or organization owned or operated by an educational institution when:

- (i) The primary purpose of the subsidiary business or organization is other than educational;
- (ii) You are not employed in the role of ~~((faculty))~~ instructional, research or principal administrative staff; and
- (iii) Your regular employment does not depend on the ~~((school's))~~ educational institution's academic calendar.

(b) All three criteria must be met in order for your services to be exempt from the provisions of RCW 50.44.050. For example:

(i) You work for Pack Forest (operated by the University of Washington, College of Forest Resources) or one of the extension programs operated by Washington State University. You are not employed in the role of ~~((faculty))~~ instructional, research or principal administrative staff and your regular employment does not depend on the ~~((school's))~~ educational institution's academic calendar. However, the primary purpose of each of these entities is educational. Employment for these entities is subject to the provisions of RCW 50.44.050 regardless of the nature of your employment.

(ii) You work for a radio station that is wholly owned and operated by a college. The primary purpose of the business is other than educational, you are not employed in the role of ~~((faculty))~~ instructional, research, or principal administrative staff, and your regular employment does not depend on the ~~((school's))~~ educational institution's academic calendar. You are not subject to the restrictions of RCW 50.44.050.

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

**WAC 192-210-005 Definitions—Educational employees.** ~~((1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services.~~

~~((2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.~~

~~((3) **Full-time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.405.210 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).~~

~~((4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.))~~ (1) **Considerably less.** The economic conditions of an offer of employment are considerably less if the individual will not earn at least ninety percent of the total wages earned in the prior academic year or term.

(2) **Educational institution.** Includes any public or private preschool, elementary school, secondary school, technical or vocational school, community or technical college, college, and university.

(3) **Educational service district** means an educational service district established pursuant to chapter 28A.310 RCW.

(4) **Highly probable** means very likely.

(5) **Nonprofessional capacity.** Includes all other services not performed in a professional capacity, regardless of the legal or educational requirements to perform such services.

(6) **Professional capacity.** Includes services performed in an instructional, research, or principal administrative capacity.

(7) **Same capacity.** In order for services to be performed in the same capacity, both the current work and the future work must both be in a professional capacity or both be in a nonprofessional capacity, even if the job titles or duties are different. In addition, both the current work and the future work must both be for an educational institution or both be for an educational services district, even if the employers or districts are different. For example:

(a) An assistant principal for the ABC school district has a contract to be a teacher for the XYZ school district the fol-

lowing academic year. These two positions are in the same capacity.

(b) A counselor who performed services in an educational institution for an educational services district is given reasonable assurance to work as a counselor directly for an educational institution the following academic year. These two positions are not in the same capacity.

(8) **Totality of the circumstances.** Analyzing the totality of the circumstances requires considering factors such as funding (including appropriations), enrollment, the nature of the course (required or optional, taught regularly or only sporadically), the claimant's seniority, budgeting and assignment practices of the school, the number of offers made in relation to the number of potential teaching assignments, the period of student registration, and any other contingencies.

**AMENDATORY SECTION** (Amending WSR 99-18-066, filed 8/31/99, effective 10/1/99)

**WAC 192-210-010 What are the objective criteria used to define "academic year"?**—~~See RCW 50.44.050 ((5))~~ (6). Summer term will be considered part of the academic year for an educational institution unless:

(1) Total enrollment of full-time equivalent students during the previous summer term is less than one third of the average academic year enrollment of full-time equivalent students for the fall, winter, and spring terms of the preceding two years; or

(2) Total full-time equivalent staff during the previous summer term is less than fifty percent of the academic year average of the full-time equivalent staff during the fall, winter, and spring terms during the preceding two years.

**AMENDATORY SECTION** (Amending WSR 02-19-009, filed 9/5/02, effective 10/6/02)

**WAC 192-210-015 How will the department decide if an individual has a contract or reasonable assurance ((exists)) of future work?**—~~See RCW 50.44.053. ((Reasonable assurance is a bona fide offer from an educational institution to assign an individual future work at that institution under the same terms and conditions as the individual's previous employment. It is less than a contract or written agreement, but more than a mere possibility of future employment. The department must find that continued employment for that individual is likely or probable. For instructional, research, or principal administrative staff at a community or technical college, the additional provisions of WAC 192-210-020 will be considered in determining whether the individual has reasonable assurance.))~~ (1)(a) For individuals who perform services in a professional capacity, wages and hours from an educational institution or educational services district will count towards the individual's base year and benefit year unless the educational institution or educational services district shows it is highly probable that the individual meets the three prerequisites in subsection (2) of this section and the educational institution or educational services district shows it is highly probable that the individual either has a contract for future work under subsection (3) of this section or reasonable assurance of future work under subsection (4) of this section.

(b) For individuals who perform services in a nonprofessional capacity, wages and hours from an educational institution or educational services district will count towards the individual's base year and benefit year unless the educational institution or educational services district shows it is highly probable that the individual meets the three prerequisites in subsection (2) of this section and the educational institution or educational services district shows it is highly probable that the individual has reasonable assurance of future work under subsection (4) of this section.

(c) When determining if an individual has a contract or reasonable assurance of future work, the department will use the facts as they are known at the time the individual filed his or her weekly claim.

(2) In order for there to be a contract or reasonable assurance of future work, the following three prerequisites must be met:

(a) There is a written, verbal or implied offer of employment made by an individual with actual authority to offer employment;

(b) The offer of employment provides that the employee will perform services in the same capacity during the ensuing academic year or term (or remainder of the current academic year or term) as in the first academic year or term; and

(c) The economic conditions of the offer of employment may not be considerably less in the following academic year or term (or portion thereof) than in the first academic year or term (or portion thereof).

(3) A contract for future work is an agreement that is:

(a) Enforceable by both the employer and employee;

(b) Noncontingent; and

(c) Provides for compensation for either:

(i) An entire academic year; or

(ii) On an annual basis.

(4) Reasonable assurance for future work exists if either:

(a)(i) There are no contingencies in the offer of employment that are within the employer's control; and

(ii) After giving primary weight to contingent nature of an offer of employment and considering the totality of the circumstances, it is highly probable that the contingencies contained in the offer of employment will be met and there will be a job available for the claimant in the following academic year or term; or

(b) The individual is tenured or holds tenure track status, unless advised otherwise by the institution of higher education. An individual holds tenure track status if he or she is a probationary faculty employee having an opportunity to be reviewed for tenure.

(5) For the purposes of determining whether reasonable assurance of future work exists under subsection (4) of this section, contingencies considered to be in the employer's control include, but are not limited to, course programming, funding allocation decisions, final course offerings, and facility availability. Contingencies considered to be outside of the employer's control include, but are not limited to, enrollment and the availability of funding from an outside source, such as a grant.

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

**WAC 192-210-045** When does ~~((reasonable assurance))~~ **RCW 50.44.050** apply if ~~((#))~~ **an individual works for more than one ((school)) employer? ~~((1))~~ ~~RCW 50.44.050 prevents the payment of benefits when "any and all" school wages for "any and all" schools for any week of unemployment fall between two successive academic terms or during holiday or vacation break periods.~~**

(2) ~~If you receive reasonable assurance for the following academic term from any school, the wages from all schools for whom you worked during the preceding academic term or break will be restricted.~~

~~Example: You worked for ABC and XYZ schools during spring 2009. You received reasonable assurance of returning to work during the fall 2009 term from ABC School but not from XYZ School. The wages from both schools must be restricted during the period between academic terms or breaks.~~

(3) ~~The period during which wages will be restricted begins during the first full week in which any school for which you worked during the preceding academic term is on break and continues through the last full week in which all schools for which you worked during the preceding academic term have resumed a term of instruction.~~

~~Example: You worked for ABC and XYZ schools during the 2008-2009 academic year. Summer is not part of the academic year for either school. ABC School's summer break begins June 15, 2009, and ends September 2, 2009. XYZ School's break begins June 22, 2009, and ends September 9, 2009. Your school wages must be restricted from June 14, 2009, through September 5, 2009.)~~ An educational institution or educational services district that offers a contract or reasonable assurance of future work will not have its hours or wages count towards a claimant's base year and benefit year. The wages and hours from all other base year employers may count towards a claimant's base year and benefit year, unless another provision applies to exclude the wages and hours. If the claimant does qualify for benefits, the educational institutions or educational services districts that offered a contract or reasonable assurance of future work will not be charged for benefits paid or be required to reimburse the department for benefits paid. For example:

(1) An individual works for both the ABC elementary school and the XYZ elementary school during the base year. The ABC elementary school offers reasonable assurance of future work, while the XYZ elementary school does not. Only the wages and hours from the XYZ elementary school may count towards the individual's base year and benefit year.

(2) An individual works full time as a computer programmer for a software company during the day. At night, the individual also teaches a programming class at a technical college. At the end of the spring term, the individual is laid off from the software company and receives a contract or reasonable assurance of future work from the technical college. Only the wages and hours from the software company may count towards the individual's base year and benefit year.

NEW SECTION

**WAC 192-210-055** **What is the impact of voluntary quits on the between and within terms denial provisions of RCW 50.44.050?** An employee of an educational institution, or an employee of an educational services district that performs services in an educational institution, who voluntarily leaves work for reasons that constitute good cause under RCW 50.20.050 may have the hours and wages from the educational institution or educational services district count towards the base year or benefit year, even if the employee has a contract or reasonable assurance of future work.

NEW SECTION

**WAC 192-210-060** **Under what circumstances is an educational employee entitled to retroactive payments of unemployment benefits?** (1) A nonprofessional employee who is denied unemployment benefits pursuant to RCW 50.44.050 can receive a retroactive payment of unemployment benefits if:

(a) The employee filed a timely claim for benefits for each week claimed;

(b) Benefits were originally denied for that week solely pursuant to RCW 50.44.050 because the employee received a reasonable assurance of future work; and

(c) Despite the reasonable assurance of future work, work was not actually available in the ensuing academic year or term.

(2) A professional employee who is denied benefits pursuant to RCW 50.44.050 because the employee received a contract or reasonable assurance of future work cannot receive a retroactive payment of unemployment benefits, even if work is not actually available in the ensuing academic year or term.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-210-020 Reasonable assurance for instructional, research, or principal administrative staff at a community or technical college—RCW 50.44.053(3).

**WSR 18-19-011  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 18-230—Filed September 7, 2018, 12:37 p.m., effective October 8, 2018]

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

Purpose: Amendment is needed to include previously omitted language for WAC 220-450-030.

Citation of Rules Affected by this Order: Amending WAC 220-450-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.240.

Adopted under notice filed as WSR 18-14-010 on June 22, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-450-030 Live wildlife—Taking from the wild, importation, possession, transfer, and holding in captivity.

Change: Under subsection (2), the department changed scientific name of *Cervus elaphus* to *Cervus canadensis*.

Rationale: Scientific name change was necessary to correct an error in the previous designation of the species.

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 the Request of a Non-governmental 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 0, Repealed 0.

Date Adopted: September 7, 2018.

Kelly Susewind  
Director

**AMENDATORY SECTION** (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

**WAC 220-450-030 Live wildlife—Taking from the wild, importation, possession, transfer, and holding in captivity.** (1) It is unlawful to take live wildlife, wild birds, or game fish from the wild without a permit issued by the director except as otherwise provided by department rule. This subsection does not apply to starlings, house sparrows, Eurasian collared doves, and rock doves taken by falconers, or rock doves and Eurasian collared doves taken by bird dog trainers.

(2) Notwithstanding the provisions of WAC 220-430-010(1), 220-450-050, and subsections (3) and (4) of this section, and except as provided under subsection (7), (8), (9), or (10) of this section, it is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of or the gametes and/or embryos of the following species in the family *Cervidae*.

<u>Common Name</u>	<u>Scientific Name</u>
<u>Roosevelt and Rocky Mountain elk</u>	<u><i>Cervus canadensis</i></u>
<u>Mule deer and Black-tailed deer</u>	<u><i>Odocoileus hemionus</i></u>
<u>White-tailed deer</u>	<u><i>Odocoileus virginianus</i></u>

Common Name

Scientific Name

Moose

*Alces alces*

Caribou

*Rangifer tarandus caribou*

(3) It is unlawful to import into the state or to hold live wildlife taken, held, possessed, or transported contrary to federal or state law, local ordinance, or department rule. It is unlawful to import live wild animals, wild birds, or game fish without first presenting to the department the health certificate required by the Washington department of agriculture under WAC 16-54-180. However, raptors used for falconry or propagation may be imported if the importer has health certificates for the raptors. Importers must produce proof of lawful importation for inspection if asked to do so by a department employee.

(4) It is unlawful to possess or hold in captivity live wild animals, wild birds, or game fish unless lawfully acquired. Any person possessing or holding wild animals, wild birds, or game fish in captivity must provide proof of lawful acquisition and possession for inspection if asked to do so by a department employee. The proof must identify the wild animals', wild birds', or game fish's:

- (a) Species;
- (b) Age and sex;
- (c) Origin;
- (d) Receiving party's name;
- (e) Source's name and address;
- (f) Invoice/statement date; and
- (g) Documentation of prior transfers.

(5) Live wild animals, wild birds, or game fish held in captivity, or their progeny or parts thereof, may not be sold or otherwise used commercially except as provided by department rule.

(6) It is unlawful to release wildlife from captivity except as provided in WAC 220-450-010. It is unlawful to release fish into any state waters, including private, natural, or man-made ponds, without first obtaining a fish planting permit. However, if a person catches game fish and keeps the fish alive on stringers, in live wells, or in other containers while fishing, he or she may release the fish back into the same waters that he or she caught the game fish in.

(7) **Scientific research or display:** The director may issue written authorization for a person to import into the state, hold, possess and propagate live specimens of wildlife listed in subsection (2) of this section, for scientific research or for display by zoos or aquariums who are accredited institutional members of the Association of Zoos and Aquariums (AZA), provided that the person:

- (a) Confines the specimens to a secure facility;
- (b) Does not transfer specimens to any other location within the state without the director's written authorization, and the specimens are transferred to other AZA-accredited facilities and transported by AZA-accredited institutional members or their authorized agents;
- (c) Does not sell or otherwise dispose of specimens within the state, unless the director gives written approval to sell or dispose of the specimens;
- (d) Keeps records on the specimens and make reports as the director requires; and
- (e) Complies with the requirements in this section.

(8) **Retention or disposal of existing specimens lawfully in captivity prior to June 20, 1992:** A person who holds live Roosevelt and Rocky Mountain elk, mule deer and black-tailed deer, white-tailed deer, and moose may retain the specimens of the wildlife the person lawfully possessed prior to June 20, 1992, and the lawful progeny of that wildlife, provided the person complies with the requirements of this section, and:

(a) Reports to the director, in writing, the species, number, and location of the specimens as required;

(b) Confines the specimens to a secure facility at the location reported, and the facility meets the requirements listed in WAC 220-450-040;

(c) Does not propagate live specimens except at AZA-accredited facilities with the director's written permission or as otherwise authorized in writing by the director;

(d) Does not release live specimens, except with the director's written permission;

(e) Does not sell or transfer live specimens, except:

(i) Live specimens in lawful possession prior to June 20, 1992, and their lawful progeny may be permanently removed from Washington state or transported directly to slaughter in accordance with applicable law;

(ii) Federally listed endangered or threatened species may be transferred to AZA-accredited facilities in compliance with federal law;

(iii) Live specimens may be moved to the new primary residence of the possessor with the director's written approval, provided all other requirements of this section are satisfied and the total number of locations where animals are held is not increased; and

(iv) AZA-accredited facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(f) Live specimens must be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at AZA-accredited facilities with the director's written permission.

(9) **Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993:** A person holding live specimens of wildlife newly listed in subsection (2) of this section by operation of this rule (Caribou (*Rangifer tarandus caribou*)), may retain the specimens of such wildlife the person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens; and

(b) The person complies with subsection (8)(b) through (f) of this section and the other requirements of this section.

(10) The provisions of this section do not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes or embryos, where in compliance with federal law.

(11) **Escaped wildlife:**

(a) Escaped wildlife is considered a public nuisance. The department or any peace officer may seize, capture, or destroy wildlife that have escaped the possessor's control.

The former possessor is responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Possessors must report escaped wildlife to the department immediately.

(c) Possessors must report the recapture or death of escaped wildlife to the department immediately.

(12) **Testing specimens:**

(a) If the director issues a permit to allow any member of the Genus *Cervus*, identified in subsection (2) of this section, then prior to the animal's entry into Washington state, the person must submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence. Red deer genetic influence is genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington. Upon examination by department biologists, animals deemed to exhibit behavioral (vocalization), morphological (size, rump patch, color), or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) A person currently holding any member of the genus *Cervus elaphus* identified in subsection (2) of this section must immediately submit to the director records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence, as defined in (a) of this subsection, for each individual cervid. Genetic testing will be at the possessor's expense. Any animals identified as red deer or having nonindigenous genetic influence must be destroyed, removed from the state, or neutered immediately.

(c) The director may require wildlife listed in subsection (2) of this section that are lawfully held in captivity to be tested for brucellosis (*Brucella abortus*), tuberculosis (*Mycobacterium bovis* and *Mycobacterium tuberculosis*), meningeal worm (*Paralophostrongylus tenuis*), and muscle worm (*Elaphostrongylus cervis*) in accordance with the procedures specified in department of agriculture WAC 16-54-180. The director may also require testing for other diseases or parasites determined to pose a risk to wildlife. Results of those tests must be filed with the director as required.

(13) **Reporting:**

(a) A person holding wildlife listed in subsection (2) of this section in captivity must submit a completed report no later than March 30, 1993, and then no later than January 31 of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing wildlife listed in subsection (2) of this section must notify the director within 10 days of any change of such persons' address and/or location of the holding facility.

(14) **Inspection:** All holding facilities for captive wildlife located in the state are subject to inspection, conducted at a reasonable time, for compliance with the provisions of this section.

(15) **Notification and disposition of diseased animals:**

(a) Any person who has reason to believe that wildlife being held pursuant to this rule have contracted or been

exposed to a dangerous or communicable disease or parasite must notify the department immediately.

(b) Upon reason to believe that wildlife held pursuant to this rule have contracted or been exposed to a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian, certified fish pathologist, or inspection agent. Inspection will be at the possessor's expense.

(c) The director will determine when destruction of wildlife or quarantine, disinfection, or sterilization of facilities is required at any facility holding wildlife pursuant to this rule. If the director determines that destruction of wildlife or quarantine, disinfection, or sterilization of facilities is required, he or she will issue a written order to the possessor describing the procedure to be followed and the time period for carrying out such actions. The destruction of wildlife or quarantine, disinfection, or sterilization of facilities will be at the possessor's expense.

**(16) Quarantine area:**

(a) Facilities holding wildlife listed in subsection (2) of this section must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington.

(i) An approved quarantine facility is one that meets criteria set by the Washington department of agriculture in chapter 16-54 WAC.

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) If quarantine becomes necessary, the possessor of any wildlife requiring quarantine must provide an on-site quarantine facility or make arrangements at the possessor's expense to transport his or her wildlife to an approved quarantine facility.

**(17) Seizure:**

(a) The department may seize any unlawfully possessed wildlife.

(b) The cost of any seizure or holding of wildlife may be charged to the possessor of the wildlife.

(18) Violation of this section is a misdemeanor punishable under RCW 77.15.750, Unlawful use of a department permit—Penalty.

- Changing phytosanitary field inspection due dates for fall plantings of western Washington crops from April 15 to April 1 in WAC 16-301-220 to more accurately reflect current industry practices;
- Changing phytosanitary field inspection due dates for eastern Washington perennial crops other than corn from June 1 to April 15 in WAC 16-301-220 to more accurately reflect current industry practices;
- Changing phytosanitary field inspection due dates for eastern Washington fields established with stecklings or transplants from June 1 to twenty-one days after planting in WAC 16-301-220 to more accurately reflect current industry practices;
- Changing notification due dates for seedling fields of beans to be harvested for certification the same year of planting from July 1 to twenty-one days after planting in WAC 16-302-050 to more accurately reflect current industry practices;
- Changing seed certification renewal application due dates for alfalfa and clover from June 15 to April 15 in WAC 16-302-050 to more accurately reflect current industry practices;
- Changing seed certification renewal application due dates for grass from May 1 to April 15 in WAC 16-302-050;
- Adding language to WAC 16-301-005 to include definitions for "open pollinated" and "top cross"; and
- Changing maximum percentage of inert material for prairie sand-reed in WAC 16-302-470 from 0.10 percent to ten percent.

Citation of Rules Affected by this Order: Amending WAC 16-301-005, 16-301-045, 16-301-220, 16-302-050, 16-302-100, and 16-302-470.

Statutory Authority for Adoption: RCW 15.49.005, [15.49].021, [15.49].310, and [15.49].370.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-15-086 on July 18, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, 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 6, Repealed 0.

Date Adopted: September 10, 2018.

Derek I. Sandison  
Director

**WSR 18-19-017**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed September 10, 2018, 8:05 a.m., effective October 11, 2018]

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

Purpose: This rule-making order amends chapter 16-301 WAC, General seed regulations and chapter 16-302 WAC, General rules for seed certification, by:

- Adding Palmers amaranth to the prohibited noxious weed seed list in WAC 16-301-045 and the seed certification prohibited noxious weed seed list in WAC 16-302-100;

AMENDATORY SECTION (Amending WSR 17-20-076, filed 10/3/17, effective 11/3/17)

**WAC 16-301-005 General seed standards—Definitions.** Definitions for terms used in this chapter and in chapters 16-302 and 16-303 WAC may be found in chapter 15.49 RCW, seed. For the purposes of these chapters, the following definitions shall apply unless otherwise provided for in law or rule:

**"Agricultural seed"** as defined in RCW 15.49.011(2) includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn seeds, and combination of such seeds, and may include common and restricted noxious weed seeds but not prohibited noxious weed seeds.

**"AOSA"** means the Association of Official Seed Analysts.

**"AOSCA"** means the Association of Official Seed Certifying Agencies.

**"Approved trial grounds"** means a specific parcel of land approved by the director for experimental or limited production or increase of bean seed.

**"Bean"** means common beans and adzuki beans.

**"Blend"** as defined in RCW 15.49.011(3) means seed consisting of more than one variety of a species, each in excess of five percent by weight of the whole.

**"Blending"** as related to this chapter shall be the process of commingling two or more lots of seed to form one lot of uniform quality.

**"Buyer"** means a person who purchases seeds.

**"Certifying agency"** as defined in RCW 15.49.011(6) means:

(a) An agency authorized under the laws of any state, territory, or possession to certify seed officially and which has standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified; or

(b) An agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (a) of this subsection.

**"Common bean"** means *Phaseolus vulgaris L.*

**"Complete record"** means information which relates to the origin, treatment, germination and purity (including variety) of each lot of seed. Records include seed samples and records of declaration, labels, purchases, sales, cleaning, bulking, treatment, handling, storage, analyses, tests and examinations.

**"Dealer"** as defined in RCW 15.49.011(9) means any person who distributes seeds.

**"Department"** as defined in RCW 15.49.011(10) means the Washington state department of agriculture or its duly authorized representative.

**"Director"** as defined in RCW 15.49.011(11) means the director of the department of agriculture.

**"Field standards"** means the tolerances permitted as determined by established field inspection procedures.

**"Fiscal year"** means the twelve-month period July 1 through June 30.

**"Flower seeds"** as defined in RCW 15.49.011(13) include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold as flower seeds in this state.

**"Germination"** as defined in RCW 15.49.011(15) means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.

**"Interagency certification"** means the participation of two or more official certifying agencies in performing the services required to certify the same lot or lots of seed.

**"Isolation standards"** means the distance in feet from any contaminating source (i.e., distance from other fields of same species).

**"Label"** as defined in RCW 15.49.011(21) includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by chapter 15.49 RCW, and may include other information including the requirement for mediation.

**"Land standards"** means the number of years that must elapse between the destruction of a stand of a kind, and establishment of a stand of a specified class of a variety of the same kind (i.e., number of years out of production of same crop kind).

**"Mixture, mixed or mix"** as defined in RCW 15.49.011(24) means seed consisting of more than one species, each in excess of five percent by weight of the whole.

**"Nursery"** means an area of two acres or less in which grass for seed production is seeded in rows with twenty-four inch minimum spacing to facilitate roguing.

**"O.E.C.D."** means the Organization for Economic Cooperation and Development certification scheme.

**"Off-type"** means a plant or seed which deviates in one or more characteristics from that which has been described as being usual for the strain or variety.

**"Official certificate"** means a document issued by an official testing agency including but not limited to seed certification tags, bulk seed certification certificates, phyto-sanitary certificates, laboratory sanitary certificates, and other letters, tags, stamps, or similar documents certifying seed quality or condition.

**"Official sample"** as defined in RCW 15.49.011(25) means any sample taken and designated as official by the department.

**"Official seed laboratory"** means a seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Laboratory, 21 N 1st Avenue, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon.

**"Open pollinated"** means seed produced as a result of natural pollination as opposed to hybrid seed produced as a result of controlled pollination.

**"Origin"** means the county within the state of Washington, or the state, territory, or country where a specific seed lot was grown.

**"Person"** as defined in RCW 15.49.011(27) means an individual, partnership, corporation, company, association, receiver, trustee or agent.

"**Proprietary variety**" means that crop variety for which a person has exclusive production and/or marketing rights.

"**Representative sample**" means a sample drawn in accordance with sampling procedures adopted in WAC 16-301-095.

"**Seeds**" as defined in RCW 15.49.011(35) means agricultural or vegetable seeds, or other seeds as determined by rules adopted by the department.

"**Seed labeling permit**" means a permit issued by the department pursuant to RCW 15.49.400 to a person labeling seed for distribution in this state.

"**Seed program advisory committee**" means a committee of representatives from the small grains, pea, lentil, bean, vegetable, small seeded legumes, and grass seed industries selected by the program manager in consultation with the industry.

"**Seed standards**" means the tolerances permitted as determined by established seed inspection procedures.

"**Serology**" means precipitation, agglutination, immunodiffusion, or labeled antibody test methods (such as ELISA) that use the specificity of antigen-antibody reactions to detect and identify antigenic substances and the organisms such as viruses and bacteria that carry viruses.

"**Stock seed**" means breeders, prebasic, or like initial generation of seed.

"**Sudangrass**" means *Sorghum bicolor x drummondii*.

"**Top cross**" means the first generation of a cross of an open pollinated variety with either an inbred line, a foundation backcross, or a foundation single cross.

"**University**" means the Washington State University.

"**USDA**" means the United States Department of Agriculture.

"**Vegetable seeds**" as defined in RCW 15.49.011(40) include the seeds of all crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

"**WSCIA**" means the Washington State Crop Improvement Association.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-045 Prohibited noxious weed seeds.**

Prohibited noxious weed seeds are the seeds of weeds which when established are highly destructive, competitive and/or difficult to control by cultural or chemical practices. Seed is deemed mislabeled if the seed consists of or contains any of the prohibited noxious weed seeds listed below. For the purpose of seed certification, see WAC 16-302-100 for the list of prohibited noxious weeds.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Austrian fieldcress	<i>Rorippa austriaca</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hedge bindweed	<i>Calystegia sepium</i>
Bladder campion (only in timothy-	<i>Silene vulgaris</i>

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
<i>Phleum pratense</i> )	
Camelthorn	<i>Alhagi maurorum</i>
Canada thistle	<i>Cirsium arvense</i>
Hairy whitetop	<i>Lepidium appelianum</i>
Hoary cress	<i>Lepidium draba</i>
Jointed goatgrass (only in small grain)	<i>Aegilops cylindrica</i>
Knapweed complex (including bighead, Vochin, black, brown, diffuse, meadow, Russian, spotted knapweeds  Purple starthistle)	<i>Centaurea macrocephala,</i> <i>Centaurea nigrescens,</i> <i>Centaurea nigra,</i> <i>Centaurea jacea,</i> <i>Centaurea diffusa,</i> <i>Centaurea x moncktonii,</i> <i>Rhaponticum repens,</i> <i>Centaurea stoebe</i> subsp. <i>australis,</i> <i>Centaurea calcitrapa</i>
Leafy spurge	<i>Euphorbia esula</i>
Lepyrodiclis	<i>Lepyrodiclis holosteoides</i>
<u>Palmers amaranth</u>	<u><i>Amaranthus palmeri</i></u>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Quackgrass	<i>Elymus repens</i>
Serrated tussock	<i>Nassella trichotoma</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i>
Sorghum perennial such as, but not limited to, johnsongrass, sorghum alnum, and perennial sweet sudangrass	<i>Sorghum</i> spp.
Tansy ragwort	<i>Jacobaea vulgaris</i>
Velvetleaf	<i>Abutilon theophrasti</i>
White cockle (only in timothy- <i>Phleum pratense</i> )	<i>Silene latifolia</i>
Yellow-flowering skeleton weed	<i>Chondrilla juncea</i>
Yellow starthistle	<i>Centaurea solstitialis</i>

AMENDATORY SECTION (Amending WSR 07-09-005, filed 4/4/07, effective 5/5/07)

**WAC 16-301-220 Apply for a phytosanitary field inspection.** (1) On an application provided by the department seed program, a person requesting a phytosanitary field inspection must provide a list of the disease or diseases for which inspection is requested. Only one kind of crop is permitted on each application. Applications must be submitted to the department seed program before the due date. Refer to chapter 16-303 WAC for the appropriate fees.

(2) Due dates for phytosanitary applications for field inspections are as follows:

- (a) **Western Washington**
  - (i) Fall plantings . . . . . April ~~((+5))~~ 1
  - (ii) Spring plantings . . . . . June 1
- (b) **Eastern Washington**
  - Fall plantings . . . . . April 15
  - (i) Spring planted annual crops (21 days after except corn . . . . . planting)
  - (ii) Corn ~~((and all perennial crops))~~ June 1
  - (iii) Perennial crops . . . . . April 15
  - (iv) Fields established with stecklings or transplants . . . . . (21 days after planting)

(3) Phytosanitary applications for crops requiring a fall inspection are due 30 days prior to inspection time and not later than September 15.

(4) To be eligible for *Pseudomonas pisi*, phytosanitary field inspection for peas or other diseases based on area surveillance, the applicant must file a report with the department seed program listing acreage and general location (such as block and unit if possible) prior to May 1.

(5) Applications received after the due date are assessed a late fee. Acceptance of a late application is at the discretion of the certifying agency.

(6) Each applicant must submit applications and/or required reports stating diseases for which inspection is to be made and the number of inspections required and/or requested.

AMENDATORY SECTION (Amending WSR 18-10-055, filed 4/27/18, effective 5/28/18)

**WAC 16-302-050 Submitting an application for seed certification.** (1) Seed certification application due dates are:

(a) For seed certified by the department: Alfalfa, clover, grasses and rapeseed (seedling applications) - Within sixty days of planting. Seedling applications will not be accepted if received more than one hundred five days after planting.

(b) Hybrid canola or hybrid rapeseed - Fall plantings February 1st; Spring plantings - Twenty-one days after planting.

(c) Sunflower twenty-one days after planting.

(d) Notification of a seedling field to be harvested for certification the same year of planting is due July 31st with the required fees.

- (i) Bean - ~~((July 1st))~~ Twenty-one days after planting.
- (ii) Corn - June 1st.
- (iii) Industrial hemp - Twenty-one days after planting.
- (2) For seed certified by the Washington state crop improvement association (WSCIA) seed certification application due dates are:

- (a) Fall planted small grains, peas and lentils - April 1st.
- (b) Spring planted small grains, peas, lentils, and millet - June 1st.
- (c) Chickpeas - Within twenty-eight days of planting.
- (d) Hybrid small grains - Fall plantings February 1st; spring plantings - Twenty-one days after planting.
- (e) Buckwheat and soybean - July 1st.
- (f) Sorghum - July 15th.
- (g) Forest tree seed certification - Refer to specific crop requirements in chapter 16-319 WAC.

(3) An application for seed certification must be submitted to the certifying agency each year a grower plans to produce seed for certification of annual crops (beans, peas, grain).

(4) A renewal application for seed certification must be submitted to the certifying agency after a stand is established each year that a grower plans to produce seed for certification of perennial crops (alfalfa, clover, grass). Due dates for renewal applications are as follows:

- (a) Alfalfa and clover - ~~((June))~~ April 15th.
- (b) Grass - ~~((May 1st))~~ April 15th.

(5) Applications received after the due date are assessed a late application fee.

(6) No renewal application for seed certification may be accepted after the due date if a field inspection cannot be conducted prior to harvest except at the discretion of the certifying agency.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-302-100 Seed certification—Prohibited noxious weed seed.** The following are considered prohibited noxious weeds for the purpose of seed certification.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Austrian fieldcress	<i>Rorippa austriaca</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hedge bindweed	<i>Calystegia</i> spp.
Camelthorn	<i>Alhagi maurorum</i>
Canada thistle	<i>Cirsium arvense</i>
Dodder	<i>Cuscuta</i> spp.
Hairy whitetop	<i>Lepidium appelianum</i>
Hoary cress	<i>Lepidium draba</i>
Jointed goatgrass and jointed goatgrass hybrids	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
<u>Palmers amaranth</u>	<u><i>Amaranthus palmeri</i></u>
Perennial pepperweed	<i>Lepidium latifolium</i>

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Perennial sowthistle	<i>Sonchus arvensis</i>
Quackgrass	<i>Elymus repens</i>
Knapweed complex	
Bighead	<i>Centaurea macrocephala</i>
Vochin	<i>Centaurea nigrescens</i>
Black	<i>Centaurea nigra</i>
Brown	<i>Centaurea jacea</i>
Diffuse	<i>Centaurea diffusa</i>
Meadow	<i>Centaurea x moncktonii</i>
Russian	<i>Rhaponticum repens</i>
Spotted	<i>Centaurea stoebe</i> subsp. <i>australis</i>
Purple starthistle	<i>Centaurea calcitrapa</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Serrated tussock	<i>Nassella trichotoma</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i> Cav.
Sorghum perennial such as, but not limited to, johnson-grass, sorghum alnum, and perennial sweet sudangrass	<i>Sorghum</i> spp.
Tansy ragwort	<i>Jacobaea vulgaris</i>
Yellow-flowering skeleton weed	<i>Chondrilla juncea</i>
White cockle	<i>Silene latifolia</i> (only in timothy)
Bladder campion	<i>Silene vulgaris</i> (only in timothy)
Lepyrodiclis	<i>Lepyrodiclis holsteoides</i>
Velvetleaf	<i>Abutilon theophrasti</i>

**AMENDATORY SECTION** (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

**WAC 16-302-470 Seed standards for woody plants, forbs, and other reclamation species.**

SEED STANDARDS

Crop	Minimum % Germination		Minimum % Pure seed		Maximum % Inert		Maximum % Weeds (a)		Maximum % Other crops	
	F/R	C	F/R	C	F/R	C	F/R	C	F/R	C
Small burnet	80	80	95	95	5	5	0.10	.2	.1	.25
Purple prairie clover	60(b)	60(b)	95	95	5	5	0.20	.5	.1	.25
Bitterbrush, antelope	75	75	95	95	5	5	0.10(a)	0.20	0.40 0.15(g)	1.25 0.50(g)
Balsamroot, arrowleaf sclerotinia	85	85	99	98	1.00 0	2.00 1/lb	0.02	0.04	0.10	0.20
Saltbush, four-wing	30	30	85	85	15	15	0.25(a)	.5(a)	.40 .15(g)	1.25 .50(g)
Gallardia(d)	60	60	90	90	10	10	0.20(a)	1.00(a)	.20 .10(g)	2.00 .25(g)

Crop	Minimum % Germination		Minimum % Pure seed		Maximum % Inert		Maximum % Weeds (a)		Maximum % Other crops	
	F/R	C	F/R	C	F/R	C	F/R	C	F/R	C
Prairie blazingstar or Gay-feather, thickspike <i>(Liatris pycnostachya)</i> (d)	60	60	85	80	15	20	0.30(a)	0.30(a)	0.20 0.10(g)	2.00 0.25(g)
Kochia, prostrate, forage Restricted noxious weeds	35	35	65	65	35	35	0.10 45/lb	0.20 91/lb	9/lb	25/lb
Artemesia sage, Louisiana sagebrush, big mountain  sage, pitcher's ( <i>Salvia</i> )	30 50	30 50	80 10	80 10	20 90	20 90	0.25 0.25(a)	0.50(a) 0.50(a)	0.40 0.40 0.25(g)	1.25 1.25 0.75(g)
Milkvetch, cicer Alfalfa & sweet clover Restricted noxious Sclerotia	75	70	99	98	1 0.10	2 0.10	0.01(a) None	0.20(a) 9/lb	0.01 9/lb 0.10(g)	0.20 45/lb 0.50(g)
Lupine Restricted noxious	80	80	98	98	2	2	0.25 0	0.50 9/lb	0.10	0.40
Mountain mahogany	60	60	85	85	15	15	0.25(a)	0.50(a)	0.40 0.15(g)	1.25 0.75(g)
<i>Penstemon</i> spp.	80(d)	80(d)	90	90	10	10	0.20	1.00	0.20(c) 90/lb(e)	2.00(c) 180/lb(e)
Prairie-coneflower	60	60	90	90	10	10	0.20(a)	1.00 (a)	0.20(c) 0.10(g)	2(c) 2.00(g)
Safflower	-	85	-	99	-	1	-(a)	10(a)	- 1 in 2lbs(f)	0.10 1 in 1 lb(f)
Sainfoin Restricted noxious weeds	-	80	99	99	1	2	0.10(a)	0.20 9/lb	0	0.10
Sand-reed, prairie	70	70	90	90	<del>((0-10))</del> 10	<del>((0-10))</del> 10	0.10	0.25	0.10	0.50
Winterfat	40	40	60	60	40	40	0.25	0.50	40 0.15(g)	1.25 0.75(g)

- (a) Must be free prohibited and restricted noxious weed seed.
- (b) Includes total germination and hard seed.
- (c) Never to exceed 0.25% other forbs.
- (d) Total viability by TZ.
- (e) Sweet clover.
- (f) Barley, oats, rye, triticale, or wheat.
- (g) Other varieties or kinds.

**WSR 18-19-021  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 18-233—Filed September 11, 2018, 9:43 a.m., effective October 12, 2018]

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

Purpose: Amend WAC 220-220-320 to include a two dollar dealer fee for the issuance of an aquatic invasive species prevention permit per SB [ESSB] 5303.

Citation of Rules Affected by this Order: Amending WAC 220-220-320 Recreational license dealer's fees.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130, 77.65.370, 77.65.440, 77.65.480.

Adopted under notice filed as WSR 18-12-107 on June 6, 2018.

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 the Request of a Non-governmental 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 0.

Date Adopted: September 10, 2018.

Kelly Susewind  
Director

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

**WAC 220-220-320 Recreational license dealer's fees.**

The department and license dealers may charge a license issuance fee as follows:

(1) Two dollars for the issuance of any of the following fishing licenses:

- (a) A combination license.
- (b) A saltwater license.
- (c) A freshwater license.
- (d) A one-, two-, or three-day temporary fishing license.
- (e) A family fishing weekend license.
- (f) A shellfish and seaweed license.
- (g) A razor clam license.

(2) Two dollars for the issuance of any of the following hunting licenses:

- (a) A big game combination license.
  - (b) A small game license.
  - (c) A three-consecutive day small game license.
  - (d) A hunter education deferral for a big game license.
  - (e) A hunter education deferral for a small game license.
  - (f) A second animal license.
  - (g) A special hunt license for mountain goat, bighorn sheep, or moose.
  - (h) A Western Washington pheasant license.
  - (i) A three-day Western Washington pheasant license.
- (3) Notwithstanding the provisions of this section, if any two or more licenses are issued at the same time, or the fish and wildlife lands vehicle access pass is issued with any recreational license, the license issuance fee for the document is two dollars.

(4) Two dollars for the issuance of an annual discover pass.

(5) Two dollars for the issuance of an aquatic invasive species prevention permit.

(6) Fifty cents for the issuance of any of the following:

- (a) A deer, elk, bear, cougar, mountain goat, mountain sheep, moose, or turkey transport tag.
- (b) An application for a special permit hunt.
- (c) Migratory bird harvest report cards issued with a hunt authorization.
- (d) A replacement of substitute special hunting season permit.
- (e) A migratory bird permit.
- (f) Additional fishing catch record cards.
- (g) A Puget Sound crab endorsement.
- (h) A temporary Puget Sound crab endorsement.
- (i) A two-pole endorsement.
- (j) A Columbia River salmon/steelhead endorsement.
- (k) A one-day discover pass.
- (l) Raffle tickets.

**WSR 18-19-025**

**PERMANENT RULES  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed September 12, 2018, 12:02 p.m., effective October 13, 2018]

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

Purpose: The department is amending WAC 388-482-0005 How does being a student of higher education impact my eligibility for the Washington basic food program?, to align with federal regulations allowing the department to use average monthly employment hours when determining whether students of higher education meet the twenty-hour work requirement to receive basic food benefits.

Citation of Rules Affected by this Order: Amending WAC 388-482-0005.

Statutory Authority for Adoption: The state legislature authorizes the department to administer SNAP and food assistance program for legal immigrants under RCW 74.04.500, 74.04.510, and 74.08A.120.

Adopted under notice filed as WSR 18-16-041 on July 25, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental 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: September 11, 2018.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-043, filed 11/26/13, effective 1/1/14)

**WAC 388-482-0005 How does being a student of higher education impact my eligibility for the Washington basic food program?** (1) For basic food, we consider you a student of higher education if you are:

- (a) Age eighteen through forty-nine;
  - (b) Physically and mentally able to work (we determine if you are unable to work);
  - (c) Enrolled in an institution of higher education at least half-time as defined by the institution; and
  - (d) Enrolled in coursework considered to be higher education.
- (2) An institution of higher education is:
- (a) Any educational institution that requires a high school diploma or high school equivalency certificate;

(b) A business, trade, or vocational school that requires a high school diploma or high school equivalency; or

(c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or high school equivalency.

(3) If you are a student of higher education, you must also meet one of the following conditions to be eligible for basic food:

(a) You have paid employment and work an average of at least twenty hours per week((-) each month;

(b) You are self-employed, work, and earn at least the amount you would earn working an average of twenty hours per week at the federal minimum wage each month; or

(c) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this condition, you must:

(A) Have approval for work study at the time of application for basic food;

(B) Have work study that is approved for the school term; and

(C) Anticipate actually working during that time.

(ii) The work study exemption begins:

(A) The month in which the school term starts; or

(B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

(A) The end of the month in which the school term ends; or

(B) We find out you refused a work study assignment.

(d) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

(e) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

(i) Attend class and satisfy the twenty-hour work requirement; or

(ii) Take part in a work study program.

(f) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

(g) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

(i) The child's parents; or

(ii) Your spouse.

(h) You participate in the WorkFirst program under WAC 388-310-0200;

(i) You receive TANF or SFA benefits;

(j) You attend an institution of higher education through:

(i) The Workforce Investment Act (WIA);

(ii) The basic food employment and training (~~(BF E&T)~~) program under chapter 388-444 WAC;

(iii) An approved state or local employment and training program; or

(iv) Section 236 of the Trade Act of 1974.

(4) If you are a student of higher education and the only reason you are eligible for basic food is because you are participating in work study, you are only eligible while you work

and receive money from work study. If your work study stops during the summer months, you must meet another condition to be an eligible student during this period.

(5) If you are a student of higher education, your status as a student:

(a) Begins the first day of the school term; and

(b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.

(6) We do not consider you a student of higher education if you:

(a) Graduate;

(b) Are suspended or expelled;

(c) Drop out; or

(d) Do not intend to register for the next normal school term other than summer school.

### WSR 18-19-039

#### PERMANENT RULES NORTHWEST CLEAN AIR AGENCY

[Filed September 13, 2018, 3:05 p.m., effective October 14, 2018]

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

Purpose: This rule revision has five primary objectives:

- Clarify gasoline station (referred to as gasoline dispensing facility (GDF)) requirements and include periodic testing to ensure gasoline tanks at GDFs are operated and maintained in a vapor-tight condition and in good working order (NWCAA Section 580.6),
- Create a regulatory program to reduce emissions from spray coating operations including work practices and controls (NWCAA Section 508),
- Clarify and update the public records program to reflect recent changes in chapters 42.56 RCW and 44-14 WAC (NWCAA Section 106),
- Update general definition section to remove terms that are not used in the regulation, incorporate definitions from NWCAA Section 580, and add terms related to the GDF change (NWCAA Section 200), and
- Update adoption by reference list to allow NWCAA to implement the most recent version of the referenced state and federal rules and remove citations that do not need to be adopted by reference or have been deleted from WAC (NWCAA Section 104).

Citation of Rules Affected by this Order: New Section 508 of the Regulation of NWCAA; amending Sections 104, 106, 200, and 580.6 of the Regulation of NWCAA.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 18-14-004 on June 21, 2018.

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 the Request of a Non-governmental 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 0.

Date Adopted: September 13, 2018.

Mark Buford  
Executive Director

**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 18-20 issue of the Register.

**WSR 18-19-040**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed September 13, 2018, 3:07 p.m., effective October 14, 2018]

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

Purpose: The purpose of this revision to WAC 392-121-182 is to reflect the modifications to the definitions of "site-based" and "remote" alternative learning experience course types in chapter 28A.250 RCW made in SB 6134 (2018). The definition of "site-based course" is changed from a course where a student has at least twenty percent in-person instructional contact time to one where the student has any in-person instructional contact time. The definition of "remote course" is changed to having less than twenty percent of in-person instructional contact time to no in-person instructional contact time.

Citation of Rules Affected by this Order: Amending WAC 392-121-182.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Other Authority: RCW 28A.232.010, 28A.150.315.

Adopted under notice filed as WSR 18-13-054 on June 13, 2018.

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 the Request of a Non-governmental 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 0.

Date Adopted: September 10, 2018.

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-10-045, filed 4/26/18, effective 5/27/18)

**WAC 392-121-182 Alternative learning experience requirements.** (1) **Purposes:** The purposes of this section are the following:

(a) To ensure that students enrolled in an alternative learning experience offered by a school district or public charter school have available to them educational opportunities designed to meet their individual needs;

(b) To provide general program requirements for alternative learning experiences offered by or through school districts and charter schools;

(c) To provide a method for determining full-time equivalent enrollment and a process school districts and charter schools must use when claiming state funding for alternative learning experiences.

(2) **General requirements:** A school district or charter school must meet the requirements of this section to count an alternative learning experience as a course of study pursuant to WAC 392-121-107. This section applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience. It is not intended to apply to alternative learning experiences funded exclusively with federal or local resources. This section does not apply to alternative learning experiences offered by charter schools pursuant to charter contract terms governing the operation of alternative learning experience in the school.

(3) **Definitions:** For the purposes of this section the following definitions apply:

(a)(i) "Alternative learning experience" means a course, or for grades kindergarten through eight, grade-level course work, that is a delivery method for the program of basic education and is:

(A) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(B) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or charter school, or under contract as permitted by applicable rules; and

(C) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's or charter school's policy and this chapter.

(ii) The categories of alternative learning experience courses are:

(A) "Online course" means an alternative learning experience course that has the same meaning as provided in RCW 28A.250.010.

(B) "Remote course" means an alternative learning experience course or course work that is not an online course where the ~~((student has in-person instructional contact time for less than twenty percent of the total weekly time for the course))~~ written student learning plan for the course does not

include a requirement for in-person instructional contact time.

(C) "Site-based course" means an alternative learning experience course or course work that is not an online course where the ~~(student has in-person instructional contact time for at least twenty percent of the total weekly time for the course)~~ written student learning plan for the course includes a requirement for in-person instructional contact time.

(b) "Alternative learning experience program" is a school or a program within a school that offers alternative learning experience courses or course work;

(c) "Certificated teacher" means an employee of a school district or charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is assigned and endorsed according to the provisions of chapter 181-82 WAC;

(d) "Direct personal contact" means a one-to-one meeting between a certificated teacher and the student, or, where appropriate, between the certificated teacher, the student, and the student's parent. Direct personal contact can be accomplished in person or through the use of telephone, email, instant messaging, interactive video communication, or other means of digital communication. Direct personal contact:

(i) Must be for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan;

(ii) Must be related to an alternative learning experience course or course work identified in the written student learning plan; and

(iii) Must at minimum include a two-way exchange of information between a certificated teacher and the student. All required direct personal contact must be documented.

(e) "Full-day kindergarten" means a program that is eligible for state-funded full-day kindergarten, as provided for in RCW 28A.150.315 in which any student's alternative learning experience enrollment is claimed as greater than 0.50 full-time equivalent.

(f) "In-person instructional contact" means face-to-face contact between a certificated teacher and the student in a classroom environment. In-person instructional contact may be accomplished in a group setting between the teacher and multiple students. The in-person instructional contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course identified in the written student learning plan.

(g) "Intervention plan" means a plan designed to improve the progress of students determined to be not making satisfactory progress. An intervention plan must be developed, documented, and implemented by a certificated teacher in conjunction with the student and, for students in grades K-8, the student's parent(s). For students whose written student learning plan includes only online courses, the intervention plan may be developed by the school-based support staff in conjunction with the student and certificated teacher and must be approved by the student's online certificated teacher.

At minimum, the intervention plan must include at least one of the following interventions:

(i) Increasing the frequency or duration of contact with a certificated teacher for the purposes of enhancing the ability of the certificated teacher to improve student learning;

(ii) Modifying the manner in which contact with a certificated teacher is accomplished;

(iii) Modifying the student's learning goals or performance objectives;

(iv) Modifying the number of or scope of courses or the content included in the learning plan.

(h) "Parent" has the same definition as "parent" in WAC 392-172A-01125;

(i) "Satisfactory progress" means a determination made in accordance with subsection (4)(c) that a student's progress toward achieving the specific learning goals and performance objectives specified in the written student learning plan is satisfactory;

(j) "School week" means any seven-day calendar period starting with Sunday and continuing through Saturday that includes at least three days when a district's schools are in session or when a charter school is in session;

(k) "School-based support staff" means an employee of a school district or a charter school, of a school district contractor pursuant to WAC 392-121-188, or a charter school contractor pursuant to WAC 392-121-1885, who is supporting a student in an online course. The school-based support staff may or may not hold a teaching certificate;

(l) "Substantially similar experiences and services" means that for each purchased or contracted instructional or cocurricular course, lesson, trip, or other experience, service, or activity identified on an alternative learning experience written student learning plan, there is an identical or similar experience, service, or activity made available to students enrolled in the district's regular instructional program:

(i) At a similar grade level;

(ii) At a similar level of frequency, intensity, and duration including, but not limited to, consideration of individual versus group instruction;

(iii) At a similar level of cost to the student with regard to any related club, group, or association memberships; admission, enrollment, registration, rental or other participation fees; or any other expense associated with the experience or service;

(iv) In accordance with district adopted or charter school adopted content standards or state defined grade level standards; and

(v) That is supervised, monitored, assessed, evaluated, and documented by a certificated teacher.

(m) "Synchronous digital instructional contact" means real-time communication between a certificated teacher and the student using interactive online, voice, or video communication technology. Synchronous digital instructional contact may be accomplished in a group setting between the teacher and multiple students. The synchronous digital contact must be:

(i) For the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the written student learning plan; and

(ii) Related to an alternative learning experience course or course work identified in the written student learning plan.

(n) "Total weekly time" means the estimated average hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan;

(o) "WaKIDS" means the Washington kindergarten inventory of developing skills assessment provided under RCW 28A.655.080.

(p) "Written student learning plan" means a written plan for learning that includes at least the following elements:

(i) A beginning and ending date for the student's alternative learning experience courses;

(ii) An estimate by a certificated teacher of the average number of hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan. This estimate must consider only the time the student will engage in learning activities necessary to accomplish the learning goals and performance objectives specified in the written student learning plan;

(iii) For online courses and remote courses, a description of how weekly contact requirements will be fulfilled;

(iv) A description of each alternative learning experience course or course work included as part of the learning plan, including specific learning goals, performance objectives, and learning activities for each course, written in a manner that facilitates monthly evaluation of student progress. This requirement may be met through the use of individual course syllabi or other similarly detailed descriptions of learning requirements. The description must clearly identify the requirements a student must meet to successfully complete the course or course work. Courses or course work must be identified using course names, codes, and designators specified in the most recent *Comprehensive Education Data and Research System* data manual published by the office of superintendent of public instruction;

(v) Identification of the certificated teacher responsible for each course or course work included as part of the plan;

(vi) Identification of all instructional materials that will be used to complete the learning plan; and

(vii) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan;

(viii) Identification of whether each alternative learning experience course or course work meets one or more of the state essential academic learning requirements or grade-level expectations and any other academic goals, objectives, and learning requirements defined by the school district or charter school; and

(ix) For students enrolled in full-day kindergarten:

(A) A description of curriculum activities that assist students in:

(I) Developing initial skills in the academic areas of reading, mathematics, and writing;

(II) Developing a variety of communication skills;

(III) Providing experiences in science, social studies, arts, health, physical education, and a world language other than English;

(IV) Acquiring large and small motor skills;

(V) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(VI) Learning through hands-on experiences.

(B) A description of learning environments that are developmentally appropriate and promote creativity.

**(4) Alternative learning experience program requirements:**

(a) Each student participating in an alternative learning experience must have a written student learning plan developed and approved by a certificated teacher that is designed to meet the student's individual educational needs. A certificated teacher must have responsibility and accountability for each course specified in the plan, including supervision and monitoring, and evaluation and documentation of the student's progress. The written student learning plan may be developed with assistance from the student, the student's parents, or other interested parties. For students whose written student learning plan includes only online courses, the written student learning plan may be developed and approved by a certificated teacher or a school-based support staff.

(b) Each student enrolled in an alternative learning experience must have one of the following methods of contact with a certificated teacher at least once a school week until the student completes all course objectives or otherwise meets the requirements of the learning plan:

(i) Direct personal contact; or

(ii) In-person instructional contact; or

(iii) Synchronous digital instructional contact.

(c) The educational progress of each student enrolled in an alternative learning experience must be evaluated at least once each calendar month of enrollment by a certificated teacher or, for students whose written student learning plans include only online classes, school-based support staff in accordance with this section. The results of each evaluation must be communicated to the student or, if the student is in grades K-8, both the student and the student's parent. For students whose written student learning plan includes only online courses, a school-based support staff may communicate the progress evaluation to the student. Educational progress must be evaluated according to the following requirements:

(i) Each student's educational progress evaluation must be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The evaluation of satisfactory progress must be conducted in a manner consistent with school district or charter school student evaluation or grading procedures, and be based on the professional judgment of a certificated teacher.

(iii) In the event that the monthly evaluation is not completed within the calendar month being evaluated, the evaluation must be completed within five school days of the end of the month. Districts and charter schools must not claim funding for the subsequent month for a student who was not evaluated within that time frame.

(iv) The progress evaluation conducted by a certificated teacher must include direct personal contact with the student with the following exceptions:

(A) After an initial month of satisfactory progress, in subsequent months where progress continues to be satisfac-

tory the evaluation may be communicated to the student without direct personal contact.

(B) Direct personal contact is not required as a part of the evaluation conducted in the final month of the school year if the evaluation takes the form of the delivery of final grades to the student.

(v) Based on the progress evaluation, a certificated teacher must determine and document whether the student is making satisfactory progress reaching the learning goals and performance objectives defined in the written student learning plan.

(vi) For students whose written student learning plan includes only online courses, school-based support staff, according to school policy and procedures, may use the student's progress grades in the online course or courses to determine whether a student's progress is satisfactory. School-based support staff, following school policy and procedures, may take into account nonacademic factors or local school expectations to finalize the determination of satisfactory progress. The progress grades posted in the learning management system may serve as the documentation of determining satisfactory progress.

(vii) If it is determined that the student failed to make satisfactory progress or that the student failed to follow the written student learning plan, an intervention plan must be developed for the student. An intervention plan is not required if the evaluation is delivered within the last five school days of the school year.

(viii) If after no more than three consecutive calendar months in which it is determined the student is not making satisfactory progress despite documented intervention efforts, a course of study designed to more appropriately meet the student's educational needs must be developed and implemented by a certificated teacher in conjunction with the student and where possible, the student's parent. This may include removal of the student from the alternative learning experience and enrollment of the student in another educational program offered by the school district or charter school.

(d) Alternative learning experience programs providing full-day kindergarten must have:

(i) Multiple weekly, in-person, and on-site observations of students by certificated teachers each week during the eight-week WaKIDS assessment window.

(ii) At least a one thousand annual hour instructional program.

**(5) Required school district or charter school board policies for alternative learning experiences:** The board of directors of a school district or charter school board claiming state funding for alternative learning experiences must adopt and annually review written policies authorizing such alternative learning experiences, including each alternative learning experience program and program provider. The policy must designate, by title, one or more school district official(s) or charter school official(s) responsible for overseeing the district's or charter school's alternative learning experience courses or programs, including monitoring compliance with this section, and reporting at least annually to the school district board of directors or charter school board on the program. This annual report shall include at least the following:

(a) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(b) Identification of the overall ratio of certificated instructional staff to full-time equivalent students enrolled in each alternative learning experience program;

(c) A description of how the program supports the district's or charter school's overall goals and objectives for student academic achievement; and

(d) Results of any self-evaluations conducted pursuant to subsection (10) of this section.

**(6) Alternative learning experience implementation requirements:**

(a) School districts or charter schools that offer alternative learning experience courses or course work must ensure that they are accessible to all students, including students with disabilities. Alternative learning experience courses or course work for special education students must be provided in accordance with chapter 392-172A WAC.

(b) Contracting for alternative learning experience courses or course work is subject to the provisions of WAC 392-121-188.

(c) It is the responsibility of the school district or school district contractor, or charter school or charter school contractor, to ensure that students have all curricula, course content, instructional materials and learning activities that are identified in the alternative learning experience written student learning plan.

(d) School districts and charter schools must ensure that no student or parent is provided any compensation, reimbursement, gift, reward, or gratuity related to the student's enrollment or participation in, or related to another student's recruitment or enrollment in, an alternative learning experience course or course work unless otherwise required by law. This prohibition includes, but is not limited to, funds provided to parents or students for the purchase of educational materials, supplies, experiences, services, or technological equipment.

(e) School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in an alternative learning experience course or course work.

(f) Curricula, course content, instructional materials, learning activities, and other learning resources for alternative learning experience courses or course work must be consistent in quality with those available to the district's or charter school's overall student population.

(g) Instructional materials used in alternative learning experience courses or course work must be approved pursuant to school board policies adopted in accordance with RCW 28A.320.230.

(h) A district or charter school may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience courses or course work if the purchase is consistent with the district's or charter school's approved instructional materials or curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's or charter school's regular instructional program.

Items so purchased remain the property of the school district or charter school upon program completion.

(i) School districts and charter schools are prohibited from purchasing or contracting for instructional or cocurricular experiences and services that are included in an alternative learning experience written student learning plan including, but not limited to, lessons, trips, and other activities, unless substantially similar experiences or services are also made available to students enrolled in the district's or charter school's regular instructional program. This prohibition extends to a district's or charter school's contracted providers of alternative learning experience programs, and each district and charter school shall be responsible for monitoring the compliance of its contracted providers. Nothing herein shall:

(i) Prohibit school districts or charter schools from contracting with school district or charter school employees to provide services or experiences to students; or

(ii) Prohibit school districts or charter schools from contracting with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW; or

(iii) Require school districts or charter schools that contract with school district or charter school employees to provide services or experiences to students, or with online providers approved by the office of superintendent of public instruction pursuant to chapter 28A.250 RCW, to provide substantially similar experiences and services under this subsection.

(j)(i) A school district or charter school that provides alternative learning experience courses or course work to a student must provide the parent(s) of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent must sign documentation attesting to his or her understanding of the difference. Such documentation must be retained by the district or charter school and made available for audit.

(ii) In the event a school district or charter school cannot locate a student's parent within three days of a student's request for enrollment in an alternative learning experience, the school district or charter school may enroll the student for a conditional period of no longer than thirty calendar days. The student must be disenrolled from the alternative learning experience if the school district or charter school does not obtain the documentation required under this subsection before the end of the thirty day conditional enrollment period.

(k) The school district or school district contractor, or charter school or charter school contractor, is prohibited from advertising, marketing, and otherwise providing unsolicited information about learning programs offered by the school district or charter school including, but not limited to, digital learning programs, part-time enrollment opportunities, and other alternative learning programs, to students and their parents who have filed a declaration of intent to cause a child to receive home-based instruction under RCW 28A.200.010. School districts and charter schools may respond to requests for information that are initiated by a parent. This prohibition does not apply to general mailings, newsletters, or other general communication distributed by the school district, school

district contractor, charter school, or charter school contractor to all households in the district.

(l) Work-based learning as a component of an alternative learning experience course of study is subject to the provisions of WAC 392-410-315 and 392-121-124.

(m) The school district or charter school must institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district or charter school.

(n) School districts may accept nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC for enrollment in alternative learning experiences.

(o) School districts enrolling a nonresident student must inform the resident school district if the student drops out of the alternative learning experience program or is otherwise no longer enrolled.

(p) The alternative learning experience must satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies as provided in chapter 392-410 WAC.

(q) High school alternative learning experience courses must be offered for high school credit. Courses offering credit or alternative learning experience programs issuing a high school diploma must satisfy the state board of education's high school credit and graduation requirements as provided in chapter 180-51 WAC.

(r) Beginning in the 2013-14 school year and continuing through the 2016-17 school year, school districts and charter schools offering or contracting to offer alternative learning experience courses must pay costs associated with a biennial measure of student outcomes and financial audit of the district's or charter school's alternative learning experience courses by the office of the state auditor.

(7) **Enrollment reporting procedures:** Effective the 2011-12 school year, the full-time equivalency of students enrolled in an alternative learning experience must be determined as follows:

(a) The school district or charter school must use the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, subject to documented evidence of student participation as required by WAC 392-121-106(4), the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the student's written student learning plan.

(ii) On any subsequent monthly count date, the student's full-time equivalent must be based on the estimated average weekly hours of learning activity described in the written student learning plan if:

(A) The student's progress evaluation conducted in the prior calendar month pursuant to subsection (4)(c) of this section indicates satisfactory progress; or

(B) The student's progress evaluation conducted in the prior calendar month pursuant to subsection (4)(c) of this sec-

tion indicates a lack of satisfactory progress, and an intervention plan designed to improve student progress has been developed, documented, and implemented within five school days of the date of the prior month's progress evaluation.

(iii) On any subsequent monthly count date if an intervention plan has not been developed, documented, and implemented within five days of the prior month's progress evaluation, the student's full-time equivalent must not be included by the school district or charter school in the subsequent month's enrollment count.

(iv) Enrollment of part-time students is subject to the provisions of RCW 28A.150.350, and generates a pro rata share of full-time funding.

(b) The enrollment count must exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had contact with a certificated teacher for twenty consecutive school days. Any such student must not be counted as an enrolled student until the student has met with a certificated teacher and resumed participation in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107;

(c) The enrollment count must exclude students who are not residents of Washington state as defined by WAC 392-137-115;

(d) The enrollment count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date;

(e) For alternative learning experience programs that end prior to June 1st, the June enrollment count date may be the last school day in May and include students whose written student learning plan includes an ending date that is the last school day in May.

(f) Graduating alternative learning experience students whose last school day is in May may be included in the June enrollment count if the following conditions are met:

(i) The alternative learning experience program calendar identifies that the last day of school for the graduating students is in May.

(ii) The students' written student learning plan includes an end date that is the last day of school for graduating students in May.

(g) School districts claiming alternative learning experiences students for funding for nonresident students must document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate including, but not limited to:

(i) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts shall execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(ii) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC the district may not claim funding for the student until after the release date documented by the resident district.

**(8) Assessment requirements:**

(a) All students enrolled in alternative learning experience courses or course work must be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district or charter school. Part-time students must also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(b) Any student whose alternative learning experience enrollment is claimed as greater than 0.8 full-time equivalent in any one month through the January count date must be included by the school district or charter school in any required state or federal accountability reporting for that school year, subject to existing state and federal accountability rules and procedures.

(c) Students enrolled in nonresident district alternative learning experience courses or course work who are unable to participate in required annual state assessments at the nonresident district must have the opportunity to participate in such required annual state assessments at the district of physical residence, subject to that district's planned testing schedule. It is the responsibility of the nonresident enrolling district to establish a written agreement with the district of physical residence that facilitates all necessary coordination between the districts and with the student and, where appropriate, the student's parent(s) to fulfill this requirement. Such coordination may include arranging for appropriate assessment materials, notifying the student of assessment administration schedules, arranging for the forwarding of completed assessment materials to the enrolling district for submission for scoring and reporting, arranging for any allowable testing accommodations, and other steps as may be necessary. The agreement may include rates and terms for payment of reasonable fees by the enrolling district to the district of physical residence to cover costs associated with planning for and administering the assessments to students not enrolled in the district of physical residence. Assessment results for students assessed according to these provisions must be included in the enrolling district's accountability measurements, and not in the district of physical residence's accountability measurements.

(d) School districts and charter schools offering alternative learning experience courses or course work to students enrolled in full-day kindergarten under RCW 28A.150.315 must administer WaKIDS to identify the skills, knowledge, and characteristics of kindergarten students at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction.

To maintain fidelity to the state WaKIDS assessment protocol, the WaKIDS assessment requires multiple weekly, in-person, and on-site observations of students by certificated teachers each week during the eight-week assessment window.

**(9) Reporting requirements:**

(a) Each school district or charter school offering alternative learning experience courses or course work must report monthly to the superintendent of public instruction accurate monthly headcount and full-time equivalent enrollment for students enrolled in alternative learning experiences. Each school district offering alternative learning experience courses or course work must further report monthly to the superintendent information about the resident and serving districts of such students.

(b) Each school district or charter school offering alternative learning experience courses or course work must submit an annual report to the superintendent of public instruction detailing the costs and purposes of any expenditure made pursuant to subsection (6)(i) of this section, along with the substantially similar experiences or services made available to students enrolled in the district's or charter school's regular instructional program.

(c) Each school district or charter school offering alternative learning experience courses or course work must annually report the following to the superintendent of public instruction:

(i) The number of certificated instructional staff full-time equivalent assigned to each alternative learning experience program; and

(ii) Separately identify alternative learning experience enrollment of students where instruction is provided entirely under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(iii) The number of students enrolled in full-day kindergarten at any time during the school year.

(iv) The number of students enrolled in full-day kindergarten who participated in the WaKIDS assessment prior to the assessment deadline.

(d) Each school district or charter school offering alternative learning experience courses must report all required information to the office of superintendent of public instruction's *Comprehensive Education Data and Research System* under RCW 28A.300.500. School districts and charter schools must designate alternative learning experience courses as such when reporting course information to the *Comprehensive Education Data and Research System*.

**(10) Documentation and record retention requirements:** School districts and charter schools claiming state funding for alternative learning experiences must retain all documentation required in this section in accordance with established records retention schedules and must make such documentation available upon request for purposes of state monitoring and audit. School districts and charter schools must maintain the following written documentation:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors or charter school board as required by subsection (5) of this section;

(c) Monthly and annual reports to the superintendent of public instruction as required by subsection (9) of this section;

(d) The written student learning plans required by subsection (4) of this section;

(e) Evidence of weekly contact required by subsection (4) of this section.

(i) For students participating in regularly scheduled classes, including in-person instructional contact and synchronous digital instructional contact, evidence may include classroom attendance records.

(ii) For students who are not participating in regularly scheduled classes, evidence of contact must include the date of the contact, the method of communication by which the contact was accomplished, and documentation to support the subject of the communication.

(f) Student progress evaluations and intervention plans required by subsection (4) of this section;

(g) The results of any assessments required by subsection (9) of this section;

(h) Student enrollment detail substantiating full-time equivalent enrollment reported to the state; and

(i) Signed parent enrollment disclosure documents required by subsection (6)(j) of this section.

**WSR 18-19-041**

**PERMANENT RULES**

**SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed September 13, 2018, 3:08 p.m., effective October 14, 2018]

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

Purpose: This permanent rule-making order repeals office of superintendent of public instruction (OSPI) rules related to learning improvement days. OSPI has not implemented the repealed rules since the 2010-11 school year because the underlying state funding methodology is obsolete.

Citation of Rules Affected by this Order: Repealing WAC 392-140-950 through 392-140-967.

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

Adopted under notice filed as WSR 18-16-122 on August 1, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 9.

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: September 10, 2018.

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-140-950 Learning improvement days—Applicable provisions.
- WAC 392-140-951 Learning improvement days—Purpose.
- WAC 392-140-955 Learning improvement days—Definition—Learning improvement day.
- WAC 392-140-956 Learning improvement days—Other definitions.
- WAC 392-140-957 Learning improvement days—Allowable activities.
- WAC 392-140-961 Learning improvement days—Determination of the number of funded learning improvement days.
- WAC 392-140-962 Learning improvement days—Salary allocations for learning improvement days.
- WAC 392-140-965 Learning improvement days—Requests for review and adjustment.
- WAC 392-140-967 Learning improvement days—Reporting requirements.

### **WSR 18-19-045**

#### **PERMANENT RULES**

#### **THE EVERGREEN STATE COLLEGE**

[Filed September 14, 2018, 7:51 a.m., effective October 15, 2018]

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

Purpose: Over the past few years, the college has noted shootings, including mass shootings, on college campuses in Washington state, Oregon, and around the country. On June 1, 2017, a caller threatened to commit a mass shooting on Evergreen's campus, resulting in the emergency evacuation and closure of the campus. The college and college employees continued to receive threats over several weeks following that closure. In response to these events, the college reviewed policies regarding weapons on campus. College policy regulated the possession of weapons by students and employees. No rule existed to regulate possession of weapons generally. Most college campuses have such a rule. The adopted rule is narrowly tailored to provide a safe learning environment on college property and at college events.

Citation of Rules Affected by this Order: New WAC 174-136-043.

Statutory Authority for Adoption: RCW 28B.40.120.

Adopted under notice filed as WSR 18-06-053 on March 2, 2018.

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 the Request of a Non-governmental 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 0.

Date Adopted: September 14, 2018.

John Carmichael  
Rules Coordinator

### NEW SECTION

**WAC 174-136-043 Weapons prohibited.** (1) Possession, display, storage, wearing, or use of firearms, explosives (including fireworks), dangerous chemicals or other weapons are prohibited on the college campus, college-owned property, college-approved housing, and at college-sponsored events, unless prior written approval has been obtained consistent with subsection (6) of this section.

(2) Firearm means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder, whether loaded or unloaded.

(3) Weapon includes, but is not limited to:

(a) Any weapon that it is unlawful to possess under Washington law including, but not limited to, slungshot, sand club, metal knuckles, or spring blade knife;

(b) Stun guns, electroshock weapons, longbows, hunting bows, throwing weapons, air guns, pellet guns, paint ball guns, or other pneumatic propellant;

(c) Any other object or instrument apparently capable of producing bodily harm that is carried, exhibited, displayed or drawn in a manner, under circumstances, and at a time and place that manifests an intent to intimidate another or that warrants alarm for the safety of other persons including, but not limited to, daggers, swords, weapon replicas, knives or other cutting or stabbing instruments with blades longer than three inches, clubs, or bats.

(4) Possession of a valid concealed pistol license authorized by the state of Washington is not an exemption under this section. However, nothing in this section shall prevent an individual holding a valid concealed pistol license from securing their pistol in a vehicle as authorized under RCW 9A.41.050, provided the vehicle is locked and the weapon is concealed from view; or securing their pistol with Evergreen police services under subsection (6) of this section.

(5) Individuals authorized to carry firearms or other weapons on the college campus, college-owned property,

college-approved housing, and at college-sponsored events include, but are not limited to:

(a) Bank-related security personnel required by their office to carry such firearms or weapons;

(b) Duly appointed and commissioned law enforcement officers in the state of Washington, or commissioned by agencies of the United States government while on duty and engaged in their regular duties. A law enforcement agent must notify Evergreen police services of their presence on campus on arrival.

(6) Individuals seeking to bring a firearm or other weapon onto campus, college-owned property, or a college-sponsored event for display or demonstration purposes directly related to a legitimate pedagogical and/or other authorized or educational activity, must obtain prior written authorization from Evergreen police services, or any other person designated by the president of the college. Evergreen police services, or authorized designees, will review any such request and, if it is granted, may establish conditions to the authorization. If the request is denied, the requestor will be informed of the available appeal process, if any.

Other than individuals referenced in subsection (5) of this section, individuals who bring firearms or other weapons to campus must immediately place the firearms or weapons in the college provided storage facility. The storage facility is located at Evergreen police services.

Weapons that are owned by the college for use in organized recreational activities or by special groups, such as college-sponsored clubs or teams, must be stored in a location approved by the Evergreen police services. These weapons must be checked out by the advisor or coach and are to be used only in organized recreational activities or by legitimate members of the club or team in the normal course of the club or team's related activity.

Individuals may possess a personal protection spray device, as authorized by RCW 9.91.160, when possessed and/or used for self-defense while on college-owned property.

(7) Violations of the subsections of this section are subject to appropriate disciplinary or legal action including, but not limited to, exclusion from campus or expulsion.

## WSR 18-19-046

### PERMANENT RULES

#### EDMONDS COMMUNITY COLLEGE

[Filed September 14, 2018, 8:38 a.m., effective October 15, 2018]

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

Purpose: These revisions align the code with recent updates in the Public Records Act concerning fees for providing copies of public records. These revisions also provide the necessary findings allowing Edmonds Community College to adopt the amended statutory default fee schedule that went into effect on July 23, 2017. An additional purpose is to update the rule to reflect current college policies and procedures around public records requests.

Citation of Rules Affected by this Order: New WAC 132Y-320-085 and 132Y-320-135; repealing WAC 132Y-320-070, 132Y-320-090, 132Y-320-120 and 132Y-320-990;

and amending WAC 132Y-320-010, 132Y-320-020, 132Y-320-040, 132Y-320-050, 132Y-320-060, 132Y-320-080, 132Y-320-100, and 132Y-320-110.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 18-12-083 on June 5, 2018.

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 8, Repealed 4.

Number of Sections Adopted at the Request of a Non-governmental 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 2, Amended 8, Repealed 4.

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: September 13, 2018.

Dennis Curran  
Vice President  
for Human Resources

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-010 Purpose.** The purpose of this chapter shall be to ensure compliance by Community College District No. 23 with the provisions of chapter ~~((42.17)) 42.56~~ RCW, commonly called ~~((Initiative No. 276, and in particular with RCW 42.17.250—42.17.340 of that act dealing with public records))~~ the Public Records Act.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-020 Definitions.** (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Community College District No. 23" is an agency organized by statute pursuant to RCW 28B.50.040 and shall hereinafter be referred to as the "district." Where appropriate,

the term district also refers to the board of trustees and employees of the district.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-040 Operations and procedures.** The district is established under RCW 28B.50.040 to implement the educational purposes established by RCW 28B.50.020. The college district is operated under the supervision and control of a board of trustees. The board of trustees is made up of ~~((five))~~ six members ~~((each))~~ of whom five are appointed by the governor to a term of five years. The trustees exercise the powers and duties granted them under RCW 28B.50.140. The sixth trustee, also appointed by the governor, is a student who serves a one-year term.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-050 Public records available.** (1) All public records of the district, as defined in WAC 132Y-320-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW ~~((42.17.340))~~ 42.56.210 through 42.56.470 and WAC 132Y-320-100 ~~((r))~~ Exemptions. Records may be reviewed in person at the district office during regular office hours at no charge. Fees for providing copies of records may apply, in accordance with WAC 132Y-320-090.

(2) Requestors seeking to review records in person are asked to contact the public records officer by email, phone, or mail to schedule an appointment. Contact information for the public records officer is as follows:

Public Records Officer  
Edmonds Community College  
20000 68th Avenue West  
Lynnwood, WA 98036  
425-640-1400  
records@edcc.edu

(3) The regular business hours of the public records office are from 9:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and college closures.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-060 Public records officer.** The district's public records shall be in the charge of the public records officer designated by the college president. The person so designated shall be located in the administrative offices of the district. That person may in turn designate persons in the administrative office to implement this section. The public records officer and their designee(s) shall be responsible for the following: The implementation of the district's rules and regulations regarding release of public records, coordinating the staff of the district in this regard, and generally ~~((insuring))~~ ensuring compliance by the staff with the public records disclosure requirements of chapter ~~((42.17))~~ 42.56 RCW.

The public records officer will also be responsible for providing full access to public records made available for inspection, for protecting the records from damage or disorganization, and for preventing excessive interference with essential college functions. Public records made available for inspection may not be damaged or altered in any way or removed from the office without the permission of the public records officer.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-080 Requests for public records.** ~~((In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained by members of the public upon compliance with the following procedures:~~

~~((1) A request shall be made in writing upon a form prescribed by the district which shall be available at its administrative office.))~~ (1) The public records officer or their designee will provide the fullest assistance to any member of the public requesting to inspect the records of the district. However, a person seeking records must make a specific request for identifiable records and must clearly state that the inquiry is a public records request. The district is under no legal obligation to create a new record to satisfy a records request.

(2) The district encourages requestors to use the public records request form made available by the public records office on the district's web site at [www.edcc.edu](http://www.edcc.edu). The form ~~((shall))~~ may be submitted online, by email, mail, fax, or presented to the public records officer, or to any member of the district's staff if the public records officer is not available, at the administrative offices of the district during customary office hours. If a request is made verbally, and the requestor has provided an email or mailing address, the public records officer will follow up with an email or letter confirming receipt of the request.

At a minimum, the request ~~((shall))~~, regardless of how it is submitted, should include the following information:

- (a) The name of the person requesting the record;
- (b) The mailing address, email address, or phone number of the person requesting the record;
- (c) The time of day and calendar date on which the request was made;

- ~~((e))~~ (d) The nature of the request;
- ~~((d))~~ If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the district's current index, an appropriate description of the record requested.

(2) ~~In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.)~~ (e) A description of the specific record requested;

(f) The manner in which the requestor would like to review the records.

(3) The public records officer or their designee will take action on a request for public records in as timely a manner as possible. In accordance with RCW 42.56.520, the requestor will receive a response within five days of receipt of the request by the district. If the request cannot be completed within five days, the public records officer will provide a reasonable time estimate for a complete response to the request. If the request is particularly large or complex, resulting in a large number of responsive documents and/or requiring significant redaction, the public records officer and the requestor may enter into an agreement by which the records are made available in installments at specified intervals.

(4) If the requestor fails to respond within thirty days to a request from the public records officer for clarification of all or part of the public records request, the request or part of the request requiring clarification will be considered withdrawn and no further action will be taken.

(5) The requestor must claim or review the assembled records within thirty days of receiving notification that the records are available for inspection or copying. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the district will close the request and refile the assembled records.

#### NEW SECTION

**WAC 132Y-320-085 Fees.** (1) In accordance with RCW 42.56.070(7) and 42.56.120, the district may charge fees for providing copies of public records. The district has determined that calculating the actual costs for providing copies would be unduly burdensome. This determination is based on the large number of factors involved in calculating the actual cost and the frequency with which these factors change. The district does not currently have accurate data regarding these factors, nor does it have the resources or appropriated funds to conduct an actual cost study. The district cannot divert resources away from other critical district programs in order to perform such a cost study. Additionally, such a study would likely need to be repeated on a regular basis. Therefore, the district adopts the schedule of fees provided in RCW 42.56.120(2).

(2) No fee shall be charged for the inspection of public records, however, in some cases the district will charge a fee for providing copies of public records. These fees are summarized in the fee schedule available on the district's web site at [www.edcc.edu](http://www.edcc.edu).

These charges represent the amount necessary to reimburse the district for its actual costs incident to such copying and/or electronic document preparation. Additionally, the district may impose a customized service charge to cover its costs if the request requires the use of IT expertise to prepare data compilations or if such customized access services are not used by the agency for other business purposes. The district may require a ten percent deposit in advance if the fee for producing copies of responsive records will exceed one hundred dollars. All fees must be paid by credit or debit card, money order, cashier's check or cash in advance. The charges

above may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.

Upon request, the district will provide a summary of the applicable charges before any copies are made and the requestor may revise the request to reduce the number of copies to be made and reduce the applicable charges.

(3) If the requestor fails to pay fees incurred for copying by the specified payment date, the district will close the request. In such a case, the requestor will receive notification at least ten business days in advance that the request will be closed for nonpayment.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-100 Exemptions.** (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132Y-320-080 is exempt under the provisions of chapter ~~((42-17))~~ 42.56 RCW.

~~((2))~~ In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware that some statutes outside the Public Records Act restrict the availability of some documents held by Community College District No. 23 for inspection and copying.

(2) Pursuant to RCW ~~((42-17.310))~~ 42.56.210, the district also reserves the right to ~~((delete))~~ redact identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ~~((42-17))~~ 42.56 RCW and/or other applicable statutes. The public records officer or their designee will fully justify such ~~((deletion))~~ redaction in writing.

(3) All denials of requests for public records ~~((must))~~ will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending WSR 89-12-057, filed 6/6/89)

**WAC 132Y-320-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review within ten business days. The written request shall specifically refer to the written statement by the public records officer or ~~((other staff member))~~ their designee which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or ~~((other staff member denying the request))~~ their designee shall refer ~~((#))~~ the request for review to the president of the college. The president or ~~((his))~~ their designee shall ~~((immediately))~~ consider the matter and either affirm or reverse such denial or consult with the attorney general to review the denial. In any case, the request shall be

returned with a final decision within ~~((two))~~ five business days following ~~((the original denial-~~

~~(3) Administrative remedies shall not be considered exhausted until the district has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first))~~ receipt of the appeal by the district. The time for review of the denial may be extended by mutual agreement of the district and the requestor.

NEW SECTION

**WAC 132Y-320-135 Notification of affected persons.**

If the requested record is not exempt from release under WAC 132Y-320-100 and contains information which could identify an individual or agency, the district may notify the individual or agency thus identified that release of the record has been requested. In such cases the district's initial response to the request will allow a reasonable time for the identified individual or agency to seek court protection from release of the record.

NEW SECTION

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

Old WAC Number	New WAC Number
132Y-320-080	132Y-320-075
132Y-320-100	132Y-320-095
132Y-320-110	132Y-320-105
132Y-320-130	132Y-320-125

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Y-320-070	Office hours.
WAC 132Y-320-090	Copying.
WAC 132Y-320-120	Protection of public records.
WAC 132Y-320-990	Appendix A—Request for public record to Community College District No. 23.

**WSR 18-19-051**

**PERMANENT RULES**

**DEPARTMENT OF HEALTH**

[Filed September 14, 2018, 1:33 p.m., effective October 15, 2018]

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

Purpose: WAC 246-310-290 Hospice services—Standards and need forecasting method, the adopted rule amends WAC 246-310-290 by updating and revising existing certificate of need (CN) criteria, standards and need methodology for hospice service agencies.

Citation of Rules Affected by this Order: Amending WAC 246-310-290.

Statutory Authority for Adoption: RCW 70.38.135.

Other Authority: RCW 70.38.115.

Adopted under notice filed as WSR 18-12-073 on June 1, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-310-290 (10)(b) was revised from "WAC 246-310-220 Determination of financial feasibility under WAC 246-310-210"; to "Determination of financial feasibility under WAC 246-310-220" to align with the sentence structure of the remainder of the section and remove an incorrect WAC reference.

A final cost-benefit analysis is available by contacting Katherine Hoffman, 111 Israel Road, P.O. Box 47852, Tumwater, WA 98504-7852, phone 360-236-2979, fax 360-236-2321, TTY 360-833-6388 or 711, email katherine.hoffman@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 the Request of a Non-governmental Entity: New 0, Amended 1, 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: September 14, 2018.

John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 03-07-096, filed 3/19/03, effective 4/19/03)

**WAC 246-310-290 Hospice services—Standards and need forecasting method.** The following rules apply to any in-home services agency licensed or an applicant intending to become licensed to provide hospice services ~~((which has declared an intent))~~, and intending to become a medicare certified ((as a) or medicaid contracted service provider ((of hospice services)) in a designated ~~((service))~~ planning area.

(1) The definitions((-)) in this subsection apply throughout this section unless the context clearly indicates otherwise:

(a) "ADC" means average daily census and is calculated by:

(i) Multiplying projected annual hospice agency admissions by the most recent average length of stay in Washington ~~((t))~~, based on the most recent data reported to the Centers for Medicare and Medicaid Services (CMS) ((data)) to derive the total annual days of care; ~~((and))~~

(ii) Dividing ~~((this))~~ the total calculated in (a)(i) of this subsection by three hundred sixty-five (days per year) to determine the ADC.

(b) ("Current supply of hospice providers") means:

(i) ~~Services of all providers that are licensed and medicare certified as a provider of hospice services or that have a valid (unexpired) certificate of need but have not yet obtained a license; and~~

(ii) ~~Hospice services provided directly by health maintenance organizations who are exempt from the certificate of need program. Health maintenance organization services provided by an existing provider will be counted under (b)(i) of this subsection.~~

(c) "Current hospice capacity" means:

(i) ~~For hospice agencies that have operated (or been approved to operate) in the planning area for three years or more, the average number of admissions for the last three years of operation; and~~

(ii) ~~For hospice agencies that have operated (or been approved to operate) in the planning area for less than three years, an ADC of thirty-five and the most recent Washington average length of stay data will be used to calculate assumed annual admissions for the agency as a whole for the first three years.~~

(d) "~~Hospice agency~~" or "~~in-home services agency licensed to provide hospice services~~" means a person administering or providing hospice services directly or through a contract arrangement to individuals in places of temporary or permanent residence under the direction of an interdisciplinary team composed of at least a nurse, social worker, physician, spiritual counselor, and a volunteer and, for the purposes of certificate of need, is or has declared an intent to become medicare eligible or certified as a provider of services in the medicare program.

(e)) "Average length of stay" means the average covered days of care per person for Washington state as reported by CMS.

(c) "Base year" means the most recent calendar year for which hospice survey data is available as of September 30th of each year.

(d) "CMS" means the Centers for Medicare and Medicaid Services.

(e) "Current supply of hospice providers" means all providers of hospice services that have received certificate of need approval to provide services within a planning area. State licensed only and volunteer hospices are excluded from the current supply of hospice providers.

(f) "Hospice services" means symptom and pain management provided to a terminally ill ((individual)) person, and emotional, spiritual and bereavement support for the ((individual)) terminally ill person and family in a place of temporary or permanent residence ((and may include the provision of home health and home care services for the terminally ill individual).

(f)) provided under the direction of an interdisciplinary team composed of at least a registered nurse, social worker, physician, spiritual counselor, and a volunteer.

(g) "OFM" means the Washington state office of financial management.

(h) "Planning area" or "service area" means ((each)) an individual ((county)) geographic area designated by the department ((as the smallest geographic area for which hospice services are projected)) for which hospice need projec-

tions are calculated. For the purposes of ((certificate of need, a planning or combination of)) hospice services, planning area((s may serve as the service area.

(g) "Service area" means, for the purposes of certificate of need, the geographic area for which a hospice agency is approved to provide medicare certified or medicaid eligible services and which consist of one or more planning areas)) and service area have the same meaning.

(i) "Projection year" means the third calendar year after the base year. For example, reviews using 2016 survey data as the base year will use 2019 as the projection year.

(2) The department ((shall)) will review a hospice application((s)) using the concurrent review cycle described in ((this)) subsection (3) of this section, except when the sole hospice provider in the service area ceases operation. Applications to meet this need may be accepted and reviewed in accordance with the regular review process described in WAC 246-310-110 (2)(c).

(3) Applications must be submitted and reviewed according to ((the following schedule and procedures)) Table A:

((a)) Letters of intent must be submitted between the first working day and last working day of September of each year.

(b) Initial applications must be submitted between the first working day and last working day of October of each year.

(c) The department shall screen initial applications for completeness by the last working day of November of each year.

(d) Responses to screening questions must be submitted by the last working day of December of each year.

(e) The public review and comment for applications shall begin on January 16 of each year. If January 16 is not a working day in any year, then the public review and comment period must begin on the first working day after January 16.

(f) The public comment period is limited to ninety days, unless extended according to the provisions of WAC 246-310-120 (2)(d). The first sixty days of the public comment period must be reserved for receiving public comments and conducting a public hearing, if requested. The remaining thirty days must be for the applicant or applicants to provide rebuttal statements to written or oral statements submitted during the first sixty-day period. Also, any interested person that:

(i) Is located or resides within the applicant's health service area;

(ii) Testified or submitted evidence at a public hearing; and

(iii) Requested in writing to be informed of the department's decision, shall also be provided the opportunity to provide rebuttal statements to written or oral statements submitted during the first sixty-day period.

(g) The final review period shall be limited to sixty days, unless extended according to the provisions of WAC 246-310-120 (2)(d).

(4) Any letter of intent or certificate of need application submitted for review in advance of this schedule, or certificate of need application under review as of the effective date of this section, shall be held by the department for review according to the schedule in this section.

(5) When an application initially submitted under the concurrent review cycle is deemed not to be competing, the department may convert the review to a regular review process.

(6) Hospice agencies applying for a certificate of need must demonstrate that they can meet a minimum average daily census (ADC) of thirty-five patients by the third year of

operation. An application projecting an ADC of under thirty-five patients may be approved if the applicant:

(a) Commits to maintain medicare certification;

(b) Commits to serve one or more counties that do not have any medicare-certified providers; and

(c) Can document overall financial feasibility.

Table A

		<u>Application Submission Period</u>			<u>Department Action</u>	<u>Application Review Period</u>		
<u>Concurrent Review Cycle</u>	<u>Letters of Intent Due</u>	<u>Receipt of Initial Application</u>	<u>End of Screening Period</u>	<u>Applicant Response</u>	<u>Beginning of Review</u>	<u>Public Comment</u>	<u>Rebuttal</u>	<u>Ex Parte Period</u>
<u>Cycle 1 (Chelan, Douglas, Clallam, Clark, Skamania, Cowlitz, Grant, Grays Harbor, Island, Jefferson, King, Kittitas, Klickitat, Okanogan, Pacific, San Juan, Skagit, Spokane, and Yakima).</u>	<u>Last working day of <b>November</b> of each year.</u>	<u>Last working day of <b>December</b> of each year.</u>	<u>Last working day of <b>January</b> of each year.</u>	<u>Last working day of <b>February</b> of each year.</u>	<u><b>March 16</b> of each year or the first working day thereafter.</u>	<u><b>45-Day</b> public comment period (including public hearing). Begins <b>March 17</b> or the first working day thereafter.</u>	<u><b>30-Day</b> rebuttal period. Applicant and affected person response to public comment.</u>	<u><b>75-Day</b> ex parte period. Department evaluation and decision.</u>
<u>Cycle 2 (Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Kitsap, Lewis, Lincoln, Mason, Pend Oreille, Pierce, Snohomish, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, and Whitman).</u>	<u>Last working day of <b>December</b> of each year.</u>	<u>Last working day of <b>January</b> of each year.</u>	<u>Last working day of <b>February</b> of each year.</u>	<u>Last working day of <b>March</b> of each year.</u>	<u><b>April 16</b> of each year or the first working day thereafter.</u>	<u><b>45-Day</b> public comment period (including public hearing). Begins <b>April 17</b> or the first working day thereafter.</u>	<u><b>30-Day</b> rebuttal period. Applicant and affected person response to public comment.</u>	<u><b>75-Day</b> ex parte period. Department evaluation and decision.</u>

(4) Pending certificate of need applications. A hospice service application submitted prior to the effective date of these rules will be reviewed and action taken based on the rules that were in effect on the date the application was received.

(5) The department will notify applicants fifteen calendar days prior to the scheduled decision date if it is unable to meet the decision deadline on the application(s). In that event, the department will establish and commit to a new decision date.

(6) When an application initially submitted under the concurrent review cycle is deemed not to be competing, the department may convert the review to a regular review process.

(7) Current hospice capacity will be determined as follows:

(a) For hospice agencies that have operated in a planning area for three years or more, current hospice capacity is calculated by determining the average number of unduplicated admissions for the last three years of operation;

(b) For hospice agencies that have operated (or been approved to operate) in a planning area for less than three

years, an ADC of thirty-five and the most recent Washington average length of stay data will be used to calculate assumed annual admissions for the hospice agency as a whole for the first three years to determine current hospice capacity. If a hospice agency's reported admissions exceed an ADC of thirty-five, the department will use the actual reported admissions to determine current hospice capacity;

(c) For a hospice agency that is no longer in operation, the department will use the historical three-year admissions to calculate the statewide use rates, but will not use the admissions to calculate planning area capacity;

(d) For a hospice agency that has changed ownership, the department will use the historical three-year admissions to calculate the statewide use rates, and will use the admissions to calculate planning area capacity.

(8) Need projection. The following steps will be used to project the need for hospice services.

(a) Step 1. Calculate the following ((~~four~~) two) statewide predicted hospice use rates using ((~~CMS and~~) department of health ((~~data or other available data sources~~)) survey and vital statistics death data:

(i) The ~~((predicted))~~ percentage of ~~((cancer))~~ patients age sixty-five and over who will use hospice services. This percentage is calculated by dividing the average number of ~~((hospice))~~ unduplicated admissions over the last three years for patients ~~((the age of))~~ sixty-five and over ~~((with cancer))~~ by the average number of past three years statewide total deaths age sixty-five and over ~~((from cancer))~~.

(ii) The ~~((predicted))~~ percentage of ~~((cancer))~~ patients under sixty-five who will use hospice services. This percentage is calculated by dividing the average number of ~~((hospice))~~ unduplicated admissions over the last three years for patients under the age of sixty-five ~~((with cancer))~~ by the ~~((current statewide total of))~~ average number of past three years statewide total deaths under sixty-five ~~((with cancer))~~.

~~((iii))~~ The ~~predicted~~ percentage of ~~noneancer~~ patients sixty-five and over who will use hospice services. This percentage is calculated by dividing the average number of hospice admissions over the last three years for patients age sixty-five and over with diagnoses other than cancer by the current statewide total of deaths over sixty-five with diagnoses other than cancer.

~~((iv))~~ The ~~predicted~~ percentage of ~~noneancer~~ patients under sixty-five who will use hospice services. This percentage is calculated by dividing the average number of hospice admissions over the last three years for patients under the age of sixty-five with diagnoses other than cancer by the current statewide total of deaths under sixty-five with diagnoses other than cancer.

(b) Step 2. Calculate the average number of total resident deaths over the last three years for each planning area by age cohort.

(c) Step 3. Multiply each hospice use rate determined in Step 1 by the planning areas average total resident deaths determined in Step 2, separated by age cohort.

(d) Step 4. ~~((Add the four subtotals derived))~~ Using the projected patients calculated in Step 3 ((to project)), calculate a use rate by dividing projected patients by the three-year historical average population by county. Use this use rate to determine the potential volume of hospice ((services in each planning area)) use by the projected population by the two age cohorts identified in Step 1, (a)(i) and (ii) of this subsection using OFM data.

(e) Step 5. ~~((Inflate the potential volume of hospice service by the one year estimated population growth (using OFM data).))~~ Combine the two age cohorts. Subtract the most recent three-year average hospice capacity in each planning area from the projected volumes calculated in Step 4 to determine the number of projected admissions beyond the planning area capacity.

(f) Step 6. ~~((Subtract the current hospice capacity in each planning area from the above projected volume of hospice services to determine unmet need.))~~ Multiply the unmet need from Step 5 by the statewide average length of stay as determined by CMS to determine unmet need patient days in the projection years.

(g) ~~((Determine the number of hospice agencies in the proposed planning area which could support the unmet need with an ADC of thirty-five.~~

~~((8))~~ Step 7. Divide the unmet patient days from Step 6 by 365 to determine the unmet need ADC.

(h) Step 8. Determine the number of hospice agencies in the planning areas that could support the unmet need with an ADC of thirty-five.

(9) If the department becomes aware of a facility closure fifteen calendar days or more prior to the letter of intent submission period, the department will update the methodology for the application cycle. If a closure occurs fewer than fifteen calendar days prior to the letter of intent submission period, the department will not update the methodology until the next year.

(10) In addition to demonstrating numeric need under subsection (7) of this section, ((hospice agencies)) applicants must meet the ((other)) following certificate of need requirements ((including WAC 246-310-210-)):

(a) Determination of need((, WAC 246-310-220-)) under WAC 246-310-210;

(b) Determination of financial feasibility((, WAC 246-310-230-)) under WAC 246-310-220;

(c) Criteria for structure and process of care((, and WAC 246-310-240-)) under WAC 246-310-230; and

(d) Determination of cost containment under WAC 246-310-240.

~~((9))~~ If two or more hospice agencies are competing to meet the same forecasted net need, the department shall consider at least the following factors when determining which proposal best meets forecasted need:

(a) Improved service in geographic areas and to special populations;

(b) Most cost efficient and financially feasible service;

(c) Minimum impact on existing programs;

(d) Greatest breadth and depth of hospice services;

(e) Historical provision of services; and

(f) Plans to employ an experienced and credentialed clinical staff with expertise in pain and symptom management.

~~((10))~~ (11) To conduct the superiority evaluation to determine which competing applications to approve, the department will use only the criteria and measures in this section to compare two or more applications to each other.

(a) The following measures must be used when comparing two or more applications to each other:

(i) Improved service to the planning area;

(ii) Specific populations including, but not limited to, pediatrics;

(iii) Minimum impact on existing programs;

(iv) Greatest breadth and depth of hospice services; and

(v) Published and publicly available quality data.

(b) An application will be denied if it fails to meet any criteria under WAC 246-310-210, 246-310-220, 246-310-230, or 246-310-240 (2) or (3).

(12) The department may grant a certificate of need for a new hospice agency in a planning area where there is not numeric need.

(a) The department will consider if the applicant meets the following criteria:

(i) All applicable review criteria and standards with the exception of numeric need have been met;

(ii) The applicant commits to serving medicare and medicaid patients; and

(iii) A specific population is underserved; or

(iv) The population of the county is low enough that the methodology has not projected need in five years, and the population of the county is not sufficient to meet an ADC of thirty-five.

(b) If more than one applicant applies in a planning area, the department will give preference to a hospice agency that proposes to be physically located within the planning area.

(c) The department has sole discretion to grant or deny application(s) submitted under this subsection.

(13) Any hospice agency granted a certificate of need for hospice services must provide services to the entire county for which the certificate of need was granted.

(14) Failure to operate the hospice agency ((in accordance with)) as approved in the certificate of need ((standards)) may be ((grounds)) a basis for revocation or suspension of ((an)) a hospice agency's certificate of need, or other appropriate action.

**WSR 18-19-054**  
**PERMANENT RULES**  
**ARTS COMMISSION**

[Filed September 14, 2018, 3:01 p.m., effective October 15, 2018]

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

Purpose: Adopt minor amendment to WAC 30-40-050 Funding, to remove one sentence that places a restriction on artwork funding that does not exist in statute and correct citation for the correct statute referencing the state's capital appropriation.

Citation of Rules Affected by this Order: Amending 1 [WAC 30-40-050].

Statutory Authority for Adoption: RCW 43.46.040 and 43.46.090 through 43.46.095.

Adopted under notice filed as WSR 18-16-048 on July 25, 2018.

Changes Other than Editing from Proposed to Adopted Version: Amended reference to RCW 43.46.090 through 43.46.095 and replaced with RCW 43.17.200 as the correct statute for capital appropriations.

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 the Request of a Non-governmental 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: September 13, 2018.

Karen Hanan  
Executive Director

AMENDATORY SECTION (Amending WSR 18-02-086, filed 1/2/18, effective 2/2/18)

**WAC 30-40-050 Funding.** (1) Calculation of funds.

(a) Pursuant to RCW ((43.46.090 through 43.46.095)) 43.17.200, one-half of one percent of the state's capital appropriation for the original construction of specific public buildings is set aside for the administration, acquisition, and conservation of works of art for the state art collection.

(b) ((The formula is applied to escalated maximum allowable construction cost, and may be applied to architecture and engineering fees and equipment cost.

(e)) Funding is generated by construction of any new building and/or additions to an existing building or structure except for highway construction sheds, warehouses, or other temporary buildings. In addition, funding is generated by any renovation and remodel work exceeding two hundred thousand dollars at universities, colleges, and community colleges. Renovation and remodel work does not include repair, maintenance, or replacement of building systems, such as HVAC, plumbing, wiring, fire sprinklers, roofs, insulation, lighting, or other system that keeps the building functional and safe.

(2) Partner agency eligibility and site requirements of funds.

(a) All state agencies including all state departments, boards, councils, commissions, and quasi-public corporations; all universities, colleges, community colleges, and technical colleges; and the office of the superintendent of public instruction who appropriates state funding to school districts for the original construction of school plant facilities, shall apply the formula.

(b) Works of art must be placed in public buildings or on public lands. In siting works of art, priority is given to state properties and K-12 public schools.

(c) Works of art may be sited in a location other than the construction site generating the funding.

(3) Use of funds.

(a) Staff is responsible for negotiating contracts and expending funds.

(b) Funds may be used for works of art in the state art collection that are:

(i) Integral to or attached to a public building or structure;

(ii) Detached inside or outside a public building or structure;

(iii) On or part of the landscape;

(iv) Permanent or temporary;

(v) Part of a portable exhibition or collection.

(c) Funds may be used for expenses incurred in the design, fabrication, and installation of works of art, artists' fees and expenses, staff administrative expenses, and conservation.

(d) Funds shall not be used for the partner agency's administrative expenses, architectural or professional design services, site preparation, public event expenses, insurance, fees for art selection committee participation, or maintenance of the work of art.

(e) Funds shall not be used for clock towers, electrically powered water features, memorials, logos, signage, or the depiction of school mascots.

(4) Determination of funds. Staff shall determine the funds that are available for projects and sites, in consultation with the partner agency; director of general administration; directors of state agencies; the superintendent of public instruction and school district boards of directors; or the boards of regents or trustees of universities, colleges, and community colleges. (RCW 43.17.210, 43.19.455, 28A.335.-210, and 28B.10.025.)

(5) Supplemental funds. The one-half of one percent formula is a required minimum for works of art. Partner agencies may designate additional funds from other sources. Works of art acquired using supplemental funding become part of the state art collection.

(6) Transfer of funds. After project funds for works of art are determined, staff may request transfer of the funds from the partner agency.

(7) Pooling of funds.

(a) Staff may determine that funds from multiple construction projects may be combined as part of a pooling program or to fund larger works of art within a partner agency.

(b) Only K-12 school districts with applicable state assisted construction project funds may apply for K-12 pooled funds.

(c) Eligible K-12 school districts may apply for pooled funds pursuant to WAC 30-12-017 (Applications), WAC 30-12-030 (Panels), and in accordance with published application guidelines.

**WSR 18-19-056**  
**PERMANENT RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed September 15, 2018, 10:37 a.m., effective October 16, 2018]

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

Purpose: The subject of this rule making relates to the statewide all-payer health care claims database (WA-APCD). WAC 82-75-030 provides additional definitions for terms used in the chapter that establishes and regulates WA-APCD. This rule making is to revise definitions that have been enacted and add definitions for other terms that have not previously been defined in statute or rule.

Citation of Rules Affected by this Order: Amending WAC 82-75-030.

Statutory Authority for Adoption: RCW 43.371.010(3) and 43.371.070.

Adopted under notice filed as WSR 18-15-063 on July 16, 2018.

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 the Request of a Non-governmental 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: September 15, 2018.

Roselyn Marcus  
Assistant Director  
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 18-15-002, filed 7/5/18, effective 8/5/18)

**WAC 82-75-030 Additional definitions authorized by chapter 43.371 RCW.** The following additional definitions apply throughout this chapter unless the context clearly indicates another meaning.

"Capitation payment" means a payment model where providers receive a payment on a per "covered person" basis, for specified calendar periods, for the coverage of specified health care services regardless of whether the patient obtains care. Capitation payments include, but are not limited to, global capitation arrangements that cover a comprehensive set of health care services, partial capitation arrangements for subsets of services, and care management payments.

"Claim" means a request or demand on a carrier, third-party administrator, or the state labor and industries program for payment of a benefit.

"Claimant" means a person who files a workers compensation claim with the Washington State Department of Labor and Industries.

"Coinsurance" means the percentage or amount an enrolled member pays towards the cost of a covered service.

"Copayment" means the fixed dollar amount a member pays to a health care provider at the time a covered service is provided or the full cost of a service when that is less than the fixed dollar amount.

"Data management plan" or "DMP" means a formal document that outlines how a data requestor will handle the WA-APCD data to ensure privacy and security both during and after the project.

"Data policy committee" or "DPC" is the advisory committee required by RCW 43.371.020 (5)(h) to provide advice related to data policy development.

"Data release committee" or "DRC" is the advisory committee required by RCW 43.371.020 (5)(h) to establish a data release process and to provide advice regarding formal data release requests.

"Data submission guide" means the document that contains data submission requirements including, but not limited to, required fields, file layouts, file components, edit specifications, instructions and other technical specifications.

"Data use agreement" or "DUA" means the legally binding document signed by either the lead organization and the data requestor, or the office and the data requestor, or the office and a Washington state agency, that defines the terms and conditions under which access to and use of the WA-APCD data is authorized, how the data will be secured and

protected, and how the data will be destroyed at the end of the agreement term.

"Days" means calendar days.

"Deductible" means the total dollar amount an enrolled member pays on an incurred claim toward the cost of specified covered services designated by the policy or plan over an established period of time before the carrier or third-party administrator makes any payments under an insurance policy or health benefit plan.

"Director" means the director of the office of financial management.

"Fee-for-service equivalent" means the amount that would have been paid by the payer for a specified service if the service had not been capitated or paid under an alternative payment formula like treatment episodes, or the fee amount reflected in the payer's internal fee schedule(s) for services that are not paid on a fee-for-service basis.

"Fee-for-service payment" means a payment model where providers receive a negotiated or payer-specified rate for a specific health care service provided to a patient.

"Health benefits plan" or "health plan" has the same meaning as in RCW 48.43.005.

"Health care" means care, services, or supplies related to the prevention, cure or treatment of illness, injury or disease of an individual, which includes medical, pharmaceutical or dental care. Health care includes, but is not limited to:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(b) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

"Lead organization" means the entity selected by the office of financial management to coordinate and manage the database as provided in chapter 43.371 RCW.

"Malicious intent" means the person acted willfully or intentionally to cause harm, without legal justification.

"Member" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

"Office" means the Washington state office of financial management.

"Person" means an individual; group of individuals however organized; public or private corporation, including profit and nonprofit corporations; a partnership; joint venture; public and private institution of higher education; a state, local, and federal agency; and a local or tribal government.

"PFI" means the proprietary financial information as defined in RCW 43.371.010(12).

"PHI" means protected health information as defined in the Health Insurance Portability and Accountability Act (HIPAA). Incorporating this definition from HIPAA, does not, in any manner, intend or incorporate any other HIPAA rule not otherwise applicable to the WA-APCD.

"Subscriber" means the insured individual who pays the premium or whose employment makes him or her eligible for coverage under an insurance policy or member of a health benefit plan.

"WA-APCD" means the statewide all payer health care claims database authorized in chapter 43.371 RCW.

"WA-APCD program director" means the individual designated by the office as responsible for the oversight and management of the operations of the statewide all payer health care claims database authorized in chapter 43.371 RCW.

"Washington covered person" means any eligible member and all covered dependents where the covered person is a Washington state resident, and the state of Washington has primary jurisdiction, and whose laws, rules and regulations govern the members' and dependents' insurance policy or health benefit plan.

## WSR 18-19-066

### PERMANENT RULES

### CRIMINAL JUSTICE

### TRAINING COMMISSION

[Filed September 17, 2018, 1:54 p.m., effective October 18, 2018]

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

Purpose: Add language referencing lawful permanent resident and homeschool transcript to WAC 139-07-020. SB 6145 amended sections of chapter 43.101 RCW; these WAC changes will incorporate the amended RCW sections as described in SB 6145. Additionally, adding clarifying language in reference to educational requirements.

Statutory Authority for Adoption: RCW 43.101.080.

Other Authority: SB 6145.

Adopted under notice filed as WSR 18-13-088 on June 18, 2018.

Changes Other than Editing from Proposed to Adopted Version: Add language referencing lawful permanent resident and homeschool transcript to WAC 139-07-020. SB 6145 amended sections of chapter 43.101 RCW; these WAC changes will incorporate the amended RCW sections as described in SB 6145. Additionally, adding clarifying language in reference to educational requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, 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 the Request of a Non-governmental 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 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: September 12, 2018.

Sonja Peterson  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-02-060, filed 12/27/12, effective 1/27/13)

**WAC 139-07-020 Background information.** (1) Requirements for the applicant.

(a) Personal history statement. The applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the employer before the start of a background investigation. The personal history statement form shall contain questions and answers which aid in determining whether the person is suitable for employment as a certified peace officer or a reserve officer. The questions shall address whether the applicant meets the minimum requirements for employment, has engaged in conduct or a pattern of conduct which would jeopardize the public trust in the law enforcement profession, and is of good moral character.

(b) Information requirements. To assist with the background investigation, the applicant shall provide the following:

(i) ~~((Proof of United States citizenship.))~~ Verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident. A copy of ((a)) any of the following United States government or United States Citizenship Immigration Services documents are acceptable proof: A United States birth certificate, a United States passport, ((or United States naturalization papers is acceptable proof)) a permanent resident card, a certificate of naturalization, or a certificate of citizenship.

(ii) Proof of education. A certified copy of a diploma, certificate, ~~((or))~~ transcript, or homeschool transcript is acceptable proof.

(iii) Record of any military discharge. A certified copy of the Military Service Record (DD Form 214, Member 4) is acceptable proof.

(iv) Personal references. The names and addresses of at least three people who can provide information as personal references.

(v) Previous employers or school attendees. The names and addresses of all employers and schools attended within the last ten years, at a minimum.

(vi) Residence history. A listing of the complete residential addresses for the last ten years.

(2) Requirements of the agency. At a minimum, the agency shall include the following in its collection and assessment of an applicant's background information, which also includes determining if the information provided by the applicant is accurate and truthful. The agency shall:

(a) Query all the law enforcement agency records in jurisdictions listed in subsection (1)(b)(v) and (vi) of this section;

(b) Query the motor vehicle division driving records from any state listed in subsection (1)(b)(v) and (vi) of this section;

(c) Complete and submit a fingerprint card inventory sheet to the Federal Bureau of Investigation and Washington state patrol records division for query;

(d) Query the National Crime Information Center/Interstate Identification Index (NCIC/III) and the Washington Criminal Information Center/Washington State Identification System (WACIC/WASIS) or the equivalent for each state listed in subsection (1)(b)(v) and (vi) of this section;

(e) Contact a minimum of three references and a reasonable number of previous employers listed in subsection (1)(b)(iv) and (v) of this section and document the answers to inquiries concerning whether the person meets the standards of this section; and

(f) At the conclusion of all of the requirements of the collection and assessment of an applicant's background information, the agency shall complete a report that attests to all the requirements, including the requirements of WAC 139-05-220.

### WSR 18-19-067

#### PERMANENT RULES

#### CRIMINAL JUSTICE

#### TRAINING COMMISSION

[Filed September 17, 2018, 1:59 p.m., effective October 18, 2018]

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

Purpose: WAC 139-10-215 clearly identifies parameters of eligibility to participate in the corrections equivalency course. It details who is eligible to participate in the corrections equivalency course, as the current language allows a break in service in excess of twenty-four months with no limit of time. As skills deteriorate over time, it is important to identify when a corrections officer should be required to attend a full academy as opposed to an equivalency.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 18-16-115 on August 1, 2018.

Changes Other than Editing from Proposed to Adopted Version: WAC 139-10-215 clearly identifies parameters of eligibility to participate in the corrections equivalency course. It details who is eligible to participate in the corrections equivalency course, as the current language allows a break in service in excess of twenty-four months with no limit of time. As skills deteriorate over time, it is important to identify when a corrections officer should be required to attend a full academy as opposed to an equivalency.

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 the Request of a Non-governmental 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: September 12, 2018.

Sonja Peterson  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-13-098, filed 6/17/03, effective 7/18/03)

**WAC 139-10-215 Basic corrections academy equivalency certification.** (1) A certificate of equivalent basic corrections training shall be issued only to corrections employees who successfully complete the equivalency process as required by the Washington state criminal justice training commission and shall be recognized in the same manner as the certificate of completion of a basic corrections academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time custody and case management employees of publicly funded corrections agencies within this state who have either:

(a) Obtained certification through successful completion of an accepted basic corrections training program in this or another state.

(b) Previously held certification in this state and incurred a break or interruption of corrections employment in excess of twenty-four months but less than sixty months and who are required to attend the equivalency.

The determination of program acceptability shall be the responsibility of the commission's executive director or his/her designee and shall be based upon a description and/or curriculum specifying subject areas and hourly allocation thereto.

(3) The decision to request an employee's participation within the equivalency process shall be discretionary with the chief executive officer of the employing agency. Such request shall be made to the commission in the approved form, signed by the chief executive officer of the requesting agency and shall include:

(a) Documented certification of successful completion of a basic corrections training program accepted by the training commission for the purposes of equivalency participation pursuant to the provisions of section (2) above;

(b) Written curriculum detailing specific areas of training and hours of training in specific areas;

(c) Copies of current and valid basic cardiopulmonary resuscitation (CPR) card and current and valid basic or advanced first-aid card(s) taken within the past year;

(d) Statement of applicant's health and physical condition from a licensed physician giving clearance for participation in physical training and defensive tactics coursework.

(4) Following receipt and acceptance of the above by the training commission, the applicant may participate in the equivalency process which shall include written examinations of specific core material classes, practical testing in basic skill areas, and full participation in mock scenes.

(5) Upon completion of the examination process outlined in section (4) and evaluation of the applicant's performance, the training commission shall:

(a) Issue a certificate of equivalent basic training;

(b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require;

(c) Require completion of the appropriate basic corrections academy program.

(6) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the training commission if it is determined that

sufficient justification exists for such action. Any action or determination by commission staff regarding a requestor or applicant for equivalency certification may, upon written request of the involved individual or agency, be appealed to the training commission executive director, or designee.

### WSR 18-19-069

#### PERMANENT RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 18-246—Filed September 17, 2018, 2:39 p.m., effective October 18, 2018]

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

Purpose: WAC 220-413-200 Reducing the spread of hoof disease—Unlawful transport of elk hooves.

Citation of Rules Affected by this Order: Amending WAC 220-413-200.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240.

Other Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240.

Adopted under notice filed as WSR 18-16-006 on July 20, 2018.

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 the Request of a Non-governmental 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: September 17, 2018.

Brad Smith, Chair  
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 17-17-088, filed 8/17/17, effective 9/17/17)

**WAC 220-413-200 Reducing the spread of hoof disease—Unlawful transport of elk hooves.** (1) It is unlawful to transport the hooves of harvested elk beyond the site where the animal was killed in Game Management Units 407, 418, 437, 454, 501 through 564, ~~568, 572, 574, 578,~~ 633, 636 and 642 through 699, except when specifically authorized by the department or when acting as an agent of the department in the limited capacity of cooperating with research or management actions regarding hoof disease as directed by the department.

(2) Violation of this section is an infraction under RCW 77.15.160 Infractions.

**WSR 18-19-076**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed September 18, 2018, 8:29 a.m., effective October 19, 2018]

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

Purpose: Updating WAC 458-20-260 to reflect statutory changes from the 2018 legislative session contained in ESSSB [E2SSB] 6269 (Laws of Washington, chapter 262), and to make grammatical changes for clarity.

Citation of Rules Affected by this Order: Amending WAC 458-20-260 Oil spill response and administration tax.

Statutory Authority for Adoption: RCW 82.23B.050, 82.32.300, and 82.01.060(2).

Adopted under notice filed as WSR 18-15-082 on July 18, 2018.

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 the Request of a Non-governmental 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: September 18, 2018.

Erin T. Lopez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-07-149, filed 3/23/16, effective 4/23/16)

**WAC 458-20-260 Oil spill response and administration tax.** (1) **Introduction.** This rule explains the provisions of chapter 82.23B RCW, which imposes an oil spill response tax and an oil spill administration tax. ~~((The))~~ Both of these taxes are imposed on the privilege of receiving crude oil or petroleum products through any of the following three ways at:

- A marine terminal in this state from a waterborne vessel or barge operating on the navigable waters of this state (Effective July 1, 2015, both taxes are also imposed on the privilege of receiving crude oil or petroleum products at);

- A bulk oil terminal within this state from a tank car, ((under chapter 274, Laws of 2015. RCW 82.23B.020)) as of July 1, 2015;

- A bulk oil terminal within this state from a tank car or a pipeline, as of April 1, 2018. RCW 82.23B.020.

Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(2) **Definitions.** For purposes of this rule, the following terms as found in RCW 82.23B.010 will apply.

(a) **Barrel.** "Barrel" means a unit of measurement of volume equal to forty-two United States gallons of crude oil or petroleum product.

(b) **Bulk oil terminal.** "Bulk oil terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products from a tank car or pipeline into the terminal's storage tanks.

(c) **Crude oil.** "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(d) **Department.** "Department" means the department of revenue.

(e) **Marine terminal.** "Marine terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products to or from a waterborne vessel or barge.

(f) **Navigable waters.** "Navigable waters" means those waters of the state and their adjoining shorelines that are subject to the ebb and flow of the tide, including the Columbia and Snake rivers.

(g) **Person.** "Person" or "company," herein used interchangeably, means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or any instrumentality thereof. RCW 82.04.030.

(h) **Petroleum product.** "Petroleum product" means any liquid hydrocarbons at atmospheric temperature and pressure that are the product of the fractionation, distillation, or other refining or processing of crude oil, and that are used as, useable as, or may be refined as fuel or fuel blendstock including, but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and fuels containing a blend of alcohol and petroleum.

(i) **Pipeline.** "Pipeline" means an interstate or intrastate pipeline subject to regulation by the United States Department of Transportation under 49 C.F.R. Part 195 in effect as of April 1, 2018, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipes, pumping units, and fabricated assemblies associated with pumping units.

(j) **Previously taxed product.** "Previously taxed product" means any crude oil or petroleum product which has been received in this state in a manner subject to the tax imposed by chapter 82.23B RCW and upon which such tax has been paid.

~~((j))~~ (k) **Tax.** "Tax" means the oil spill response and oil spill administration taxes imposed by chapter 82.23B RCW.

~~((l))~~ (l) **Taxpayer.** "Taxpayer" means the person owning crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal in this state and who is liable for the tax.

~~((m))~~ (m) **Tank car.** "Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

~~((n))~~ (n) **Waterborne vessel or barge.** "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

**(3) Imposition, base, and reporting of tax.** The ~~((tax is))~~ taxes are imposed on the privilege of receiving ~~((:))~~ crude oil or petroleum products at:

- A marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; ~~((or effective July 1, 2015, crude oil or petroleum products at))~~

- A bulk oil terminal within this state from a tank car, beginning July 1, 2015; or

- A bulk oil terminal within this state from a pipeline, beginning April 1, 2018.

The tax is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car, pipeline or waterborne vessel or barge. RCW 82.23B-020.

**(a) Tax is due.** The tax is due for payment together with the timely filing of the tax return on which it is reported, on or before the twenty-fifth day of the month following the month in which the taxable receipt of crude oil or petroleum products occurs. If receipt commences on the last day of any month and extends past midnight, the receipt at the election of the marine or bulk oil terminal may be deemed to have occurred during the following month or may be deemed to have been completed at midnight on the last day of the month on which it was commenced.

**(b) Compute the number of net barrels.** The number of barrels received must be computed as the net barrels received by the marine or bulk oil terminal operator. Net barrels must be computed by using an industry standard adjustment to gross barrels received to account for variations in temperature and content of water or other nonpetroleum substances.

**(4) Tax collection by the marine or bulk oil terminal operator.** Unless the taxpayer has been issued a direct payment certificate as provided in subsection (5) of this rule, the operator of any marine or bulk oil terminal located in this state where crude oil or petroleum products are received and placed into storage tanks is responsible for the collection of the tax from the taxpayer.

**(a) Personally liable for the tax.** Failure to collect the tax from the taxpayer and remit it to the department will cause the marine or bulk oil terminal operator to become personally liable for the tax, unless the terminal operator has billed the taxpayer for the tax or notified the taxpayer in writing of the imposition of the tax.

(i) The tax has been billed to a taxpayer when an invoice, statement of account, or notice of imposition of the tax is mailed or delivered to the taxpayer by the marine or bulk oil terminal operator within the operator's normal billing cycle, and separately states the dates of receipt, rate of tax, number of barrels received and placed into storage tanks, and the amount of the tax required to be collected by the operator.

(ii) A taxpayer has been notified of the imposition of the tax when, within twenty days from the date of receipt, a notice is mailed or delivered to the taxpayer, or to an agent of the taxpayer authorized to accept notices of this type other than the marine or bulk oil terminal operator. This notice must separately state the dates of receipt, rate of tax, number of barrels received into storage tanks, and the amount of the tax required to be collected by the operator.

(iii) Marine and bulk oil terminal operators must maintain a record of the names and addresses of taxpayers billed for the tax, or in cases where taxpayers are sent written notification of the imposition of the tax, the names and addresses of the persons to whom notice is sent. Such records must indicate those persons billed or notified from whom the tax has been collected. On request, the records must be made available for inspection by the department.

**(b) Tax must be held in trust.** The tax collected must be held in trust by the marine or bulk oil terminal operator until paid to the department. The tax is due from the operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the tax is collected.

**(c) Use of direct payment certificate.** A marine or bulk oil terminal operator who relies in good faith on a direct payment certificate (see subsection (5) of this rule) issued to a taxpayer is relieved from any liability for the collection of the tax from the taxpayer. A marine or bulk oil terminal operator is likewise relieved from liability for collection of the tax from a taxpayer if the terminal operator relies in good faith on a current roster of certificate holders that bears the name of a taxpayer and is published by the department ~~((that bears the name of a taxpayer))~~.

**(5) Direct payment to the department.** Any taxpayer may apply to the department in writing for permission to pay the tax directly to the department. On approval of the department, any taxpayer making application for direct payment will be issued a direct payment certificate entitling the taxpayer to pay the tax directly to the department.

**(a) Qualifications for direct payments.** To qualify for direct payment, the taxpayer must meet the following requirements:

(i) The taxpayer must be registered with the department.

(ii) The taxpayer must file a bond with the department in an amount equal to two ~~((months))~~ months' estimated liability for the tax, but in no event less than ten thousand dollars. The bond must be executed by the taxpayer as principal, and by a corporation approved by the department and authorized to engage in business as a surety company in this state, as surety. Two ~~((months))~~ months' estimated tax liability shall be the total number of barrels received and placed into the storage tanks of a marine or bulk oil terminal in this state by the taxpayer during the two months in the immediately preceding twelve-month period, with the highest number of bar-

rels received multiplied by the total tax rate. If the department determines that the result of the foregoing calculation does not represent a fair estimate of the actual tax liability that the taxpayer is expected to incur, it may set the bond requirement at such higher amount as the department determines in its judgment will secure the payment of the tax. The bond requirement may be waived with proof satisfactory to the department that the taxpayer has sufficient assets located in this state to ensure payment of the tax.

(iii) The taxpayer must be current in all of its tax obligations to the state having filed all returns as required by Title 82 RCW.

(b) **Review of bond amount.** The department may, from time to time, review the amount of any bond filed by a taxpayer possessing a direct payment certificate and may, with twenty ~~((days))~~ days' written notice to the taxpayer, require such higher bond as the department determines to be necessary to ensure payment of the tax. The filing of a substitute bond in such higher amount is a condition to the continuation of the right to make direct payment under this rule.

(c) **A direct payment certificate can be revoked.** The department may revoke a direct payment certificate issued under this rule if the taxpayer fails to maintain a current registration, fails to file a substitute bond within twenty days ~~((from))~~ of a written request by the department, or becomes delinquent in the payment of the tax.

(d) **Taxpayers holding a direct payment certificate.** The department maintains a current roster of all taxpayers who have a direct payment certificate. Copies of the roster are made available on a monthly basis to any interested person requesting to be placed on the roster subscription list. Requests to be placed on the roster subscription list should be mailed to Taxpayer Services, Department of Revenue, P.O. Box 47478, Olympia, WA 98504-7478.

(e) **Application for a direct payment certificate.** Applications for a direct payment certificate must be in writing and must include the name and address of the applicant, the applicant's registration number if currently registered, and the name and phone number of a contact person. The applica-

tion must also contain a statement that if the application is approved, the taxpayer consents to ~~((the))~~ public disclosure ~~((that))~~ of the ((taxpayer has been granted a) taxpayer's direct payment certificate ~~((, or if the certificate is later revoked, the taxpayer consents to the public disclosure of the fact of revocation.))~~ status, including any subsequent revocation of any issued certificates. Certificate applications should be mailed to Taxpayer Account Administration, Attn: Oil Spill Tax Unit, Department of Revenue, P.O. Box 47476, Olympia, WA 98504-7476.

(6) **Exemption - Previously taxed crude oil or petroleum products.** The ~~((tax applies))~~ oil spill response and administration taxes apply only to the first receipt of crude oil or petroleum products at a marine or bulk oil terminal in this state. RCW 82.23B.030 provides an exemption for the subsequent receipt at a marine or bulk oil terminal in this state of previously taxed crude oil or petroleum products. This exemption applies even though the previously taxed crude oil or petroleum products are refined or processed prior to subsequent transportation and receipt.

(7) **Presumption.** Any receipt of crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state, ~~((or effective July 1, 2015, receipt of crude oil or petroleum products))~~ at a bulk oil terminal within this state from a tank car or pipeline, is presumed to be subject to the tax.

(a) **Certification of previous payment of the oil spill tax.** A person may rebut this presumption of taxability by documenting that the crude oil or petroleum products received were previously subject to the tax. The proof may be in the form of information on the invoice or a written certification from the seller at the time of shipment or exchange. The written certification must be in substantially the form below, stating that all or a specific, stated portion of the crude oil or petroleum products were previously subject to the tax or, in the alternative, stating the amount of tax remitted or to be remitted to the state respective to the crude oil or petroleum products being sold.

Certification of Previous Payment of the Oil Spill Tax

I hereby certify that all or a portion of the crude oil or petroleum products specified herein were previously subject to the oil spill tax and that such tax was paid by the undersigned.

Identify product: \_\_\_\_\_

Amount of product in this shipment: \_\_\_\_\_

Percentage of product on which the tax has been paid: \_\_\_\_\_

OR

Amount of tax remitted or to be remitted to the state on product: \_\_\_\_\_

Name of recipient: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature of Seller

\_\_\_\_\_  
Date

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
UBI Number

(b) **Example 1.** Crude oil is received at a marine terminal in this state and the tax is remitted. The crude oil is then commingled with previously untaxed crude oil from a source not

involving a receipt at a marine terminal, such as a receipt from ~~((a pipeline or))~~ a tank car. The commingled crude oil is refined into two petroleum products such as jet kerosene and

unleaded gasoline. The petroleum products are then placed on separate waterborne vessels or barges and are shipped to a second marine terminal in this state. The receipt of petroleum products at the second marine terminal is presumed to be subject to the tax. The presumption may be rebutted by proof of what portion of each product of the shipment was previously subject to tax. Proof may be made by means of information on the invoice or a written certification that substantially conforms with the requirements set forth in subsection (7)(a) of this rule.

(c) **Example 2.** Petroleum product is received at a marine terminal in this state and the tax is remitted. Substances that were not previously subject to the tax are added to the petroleum product resulting in an increase of the volume of the petroleum product. The petroleum product is then placed on a waterborne vessel or barge and received at a second marine terminal in this state. At time of receipt at the second marine terminal, the tax is due on the incremental increase in volume of the petroleum product caused by the addition of the substances.

(8) **Export credit.** A credit is allowed against the tax for any crude oil or petroleum products exported from or sold for export from the state. RCW 82.23B.040.

(a) **Credit for previously taxed product.** Any person who exports or sells for export any previously taxed product may take an export credit. When the person taking the export credit is not the person who remitted the tax, the proof of payment of tax may be made by information on an invoice or written certification that substantially conforms to the requirements set forth in subsection (7)(a) of this rule.

(b) **When product is exported.** A person exports product when the person actually transports the product beyond the borders of this state for purposes of sale, or delivers the product to a common carrier for delivery and subsequent sale or use at a point outside this state. Documentation of export is described in (d) of this subsection.

(c) **Sales of previously taxed product for export.** A person sells product for export when, as a necessary incident to a contract of sale, the seller agrees to, and does deliver previously taxed product:

- (i) To the buyer at a destination outside this state;
- (ii) To a carrier consigned to and for transportation to a destination outside this state;
- (iii) To the buyer alongside or aboard a vessel or other vehicle of transportation under circumstances where it is clear that the process of exporting the product has begun; or
- (iv) Into a pipeline for transportation to a destination outside this state.

In all circumstances, there must be a certainty of export evidenced by some overt step taken in the export process. A sale for export will not necessarily be deemed to have occurred if the product is merely in storage awaiting shipment, even though there is reasonable certainty that the product will be exported. The intention to export, as evidenced for example, by financial and contractual relationships, does not indicate certainty of export if the product has not commenced its journey outside this state. The product must actually enter the export stream. Sales of petroleum products by delivery into the fuel tank of a vessel or other vehicle in quantities greater than one hundred gallons will be considered placed

into the export stream, provided the vessel or vehicle is immediately destined for a point outside this state and the seller obtains and keeps the documentary evidence discussed in (d) of this subsection.

(d) **Certificate of export.** A person who takes the credit for export must show that the previously taxed product was exported or sold for export. An export or a sale for export may be shown by obtaining and keeping any of the following documentary evidence:

- (i) A bona fide bill of lading in which the seller is the shipper/consignor and by which the carrier agrees to transport the product to the buyer at a destination outside this state; or
- (ii) A written certification in substantially the following form:

Certificate of Export

I hereby certify that the crude oil or petroleum products specified herein, purchased by or transferred to the undersigned from (seller or transferor), have been received into the export stream and are for export for sale or use outside Washington state. I will become liable for any tax credit granted (seller or transferor) pertaining to any crude oil or petroleum products (~~which~~) that are not so exported outside Washington state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud.

Registration No. . . . . . Type of Business . . . . .  
 (If applicable)

Firm Name . . . . . Registered Name . . . . .  
 (If different)

Authorized Signature . . . . .  
 Title . . . . .

Identity of Product . . . . .  
 (Kind and amount by volume)

Date . . . . .; or

- (iii) Documents consisting of:
  - (A) Purchase orders or contracts of sale which show that the seller is required to place the product into the export stream, e.g., "f.a.s. vessel"; and
  - (B) Local delivery receipts, tripsheets, waybills, warehouse releases, etc., reflecting how and when the product was delivered into the export stream; and
  - (C) When available, records showing that the products were packaged, numbered, or otherwise handled in a way (~~which~~) that is exclusively attributable to products sold for export.

(e) **Circumstances when credit is not available.** Only the export or sale for export of crude oil or petroleum products will qualify for the export credit. Crude oil or petroleum products are not eligible for the export credit if, prior to export, they are subject to further processing or used as ingredients in other compounds unless the resulting products are themselves crude oil or petroleum products.

(f) **Location exchange agreement.** Crude oil or petroleum products delivered to purchasers in other states pursuant to location exchange agreements do not qualify for the export

credit unless the crude oil or petroleum products were previously subject to the tax, and credit has not yet been taken. A location exchange agreement is any arrangement where crude oil or petroleum products located in this state are exchanged through an accounts crediting system, or any other method, for like substances located in other states. Any person acquiring previously taxed product in this state for which no credit has been taken may claim a credit on any such product subsequently exported or sold for export, provided all of the requirements set forth in subsections (8) and (9) of this rule have been met.

(g) **Maintenance of records.** Persons claiming the export credit must maintain records necessary to verify that the qualifications for taking the credit have been met. For this purpose any person claiming a credit who maintains those records required by WAC 458-20-19301 (Multiple activities tax credit), subsection (9), will be considered to have satisfied the requirements of this subsection.

(9) **Amount of credit.** The amount of the credit is equal to the tax previously paid on the crude oil or petroleum product exported or sold for export and for which credit has not already been taken. In no event will a credit be allowed in excess of the tax paid on the product exported or sold for export.

(a) **Credit for amount billed or written on certification.** If the person claiming the credit is not the taxpayer, the credit will be equal to that portion of the tax billed on an invoice or shown on a written certification that substantially conforms with the requirements set forth in subsection (7)(a) of this rule which relates to the particular product exported or sold for export.

To determine the amount of tax reflected on an invoice (~~which~~) that relates to a particular product exported or sold for export, it may be necessary to convert the tax paid from a rate per barrel to a rate per gallon or some other unit of measurement. This conversion is computed by taking the total amount of tax paid on an invoice for a particular product and dividing that figure by the total quantity of the product expressed in terms of the unit of measurement used for export. The credit is then computed by multiplying the converted rate times the quantity of product exported or sold for export.

(b) **Accounting methods for determining credit for commingled products.** When the product exported is previously taxed product commingled with untaxed product a person claiming the export credit may compute the amount of previously taxed product using one of the following methods:

(i) First-in, first-out method. Under this method the export credit is computed by treating existing inventory as sold before later acquired inventory.

(ii) Average of tax paid method. Under this method, the export credit is determined by calculating the average rate of tax paid on all inventory. This method requires computing the tax by making adjustments in the rate of tax paid on all products on hand as they are removed from or added to storage.

(iii) Any other method approved by the department.

(c) **Use of selected method.** The use of one of the methods set forth in this subsection (9) to account for tax paid on commingled crude oil or petroleum products constitutes an election to continue using the method selected. Once

selected, no change in accounting method is permitted without the prior consent of the department.

(d) **Examples.** The following examples show how to compute the credit.

(i) **Example 3.** A petroleum products distributor purchases 100 barrels each of premium unleaded gasoline and regular unleaded gasoline. The invoice from the refiner separately states that the invoice includes \$5.00 of tax for each of the two types of products. The distributor pays the invoiced amount and later sells 2,000 gallons of the premium unleaded and 4,000 gallons of the regular unleaded to a retailer located outside Washington. To compute the amount of credit on the export sales, the distributor must convert the tax paid from barrels to gallons. Since there are 42 US gallons in a barrel and 200 barrels purchased, the number of gallons equals 8400 ( $42 \times 200$ ). The per gallon tax paid on both products is equal to .119 cents per gallon ( $\$10.00 \div 8400$ ). The distributor would be eligible for credit equal to \$2.38 for the premium unleaded ( $2,000 \times \$.00119$ ) and \$4.76 for the regular unleaded ( $4,000 \times \$.00119$ ).

(ii) **Example 4.** A petroleum products distributor purchases 100 barrels of unleaded gasoline on which the tax has been remitted for a portion. The invoice for the unleaded separately states that the total price includes \$4.00 of tax. This previously taxed product is commingled with 30 barrels of other previously untaxed gasoline (~~(received through a pipeline, that is, product that is not subject to tax)~~). The distributor sells 2,940 gallons of commingled product to a retailer for sale outside Washington. The tax paid on the previously taxed product is equal to .095 cents per gallon ( $\$4.00 \div 4200$ ). Since the exported product has been blended with product that has not been taxed, only 76.9% of the exported product is eligible for credit ( $100 \div 130$ ). The credit is \$2.15 ( $2,940 \times .769 \times \$.00095$ ).

(iii) **Example 5.** A petroleum distributor purchases 100 barrels of gasoline and receives from the seller an invoice that states that the tax has been paid on 90% of the shipped product. The distributor exports the 100 barrels. The petroleum distributor may claim an export credit of \$4.50. (90% of 100 barrels equals 90 barrels times the tax rate of \$.05 equals \$4.50.)

(iv) **Example 6.** A petroleum distributor purchases 100 barrels of unleaded gasoline from refinery A and later purchases 100 barrels from refinery B. The distributor stores all of its unleaded gasoline in a single storage tank. The invoice from refinery A separately states the amount of tax on the gasoline as \$5.00 and the refinery B invoice states the tax as \$4.00. The distributor pays the two invoiced amounts and sells 2,100 gallons of the commingled unleaded to a retailer located outside Washington. The distributor then purchases 100 more barrels of unleaded gasoline from distributor C. Distributor C's invoice separately states the tax as \$3.00. Following payment of the invoice, the distributor exports an additional 2,100 gallons of unleaded. The distributor could choose to calculate the tax using one of the methods of accounting described in (b) of this subsection.

(A) Under the first-in, first-out method, the distributor would treat all 4,200 gallons sold as if it was the unleaded gasoline purchased from refinery A. Under this method, the

credit would be equal to .119 cents per gallon ( $\$5.00 \div 4,200$ ) or  $\$5.00$  total ( $\$.00119 \times 4,200$ ).

(B) Under the average of tax paid method the distributor would recompute the tax paid on average for the entire commingled amount, making adjustments as gasoline is sold or gasoline is added. Prior to the addition of the purchases from refinery B or distributor C, the rate would be .119 cents per gallon ( $\$5.00 \div 4,200$ ). Following the addition of the 100 barrels from refinery B, the tank contains 8,400 gallons. The rate of tax would now be .107 cents per gallon ( $(\$5.00 + \$4.00) \div 8,400$ ). Out of this amount 2,100 gallons is exported in the first sale. The credit for this sale would be equal to  $\$2.25$  ( $\$.00107 \times 2,100$ ).

(10) **Credit for use of petroleum products.** A person having paid the tax imposed by chapter 82.23B RCW may claim a refund or credit for the following:

(a) The use of petroleum products as a consumer for a purpose other than as a fuel. For this purpose, the term consumer shall be defined as provided in RCW 82.04.190; or

(b) The use of petroleum products as a component or ingredient in the manufacture of an item which is not a fuel.

(c) The amount of refund or credit claimed may not exceed the amount of tax paid by the person making such claim on the petroleum products so consumed or used.

### WSR 18-19-078

#### PERMANENT RULES

#### DEPARTMENT OF REVENUE

[Filed September 18, 2018, 9:49 a.m., effective October 19, 2018]

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

Purpose: WAC 458-12-055 is being amended to incorporate language from SSB 6475 that passed during the 2018 legislative session. This legislation clarified that if a regional transit authority imposes property taxes, the taxes can only be imposed on a parcel of real property that is wholly located within the boundaries of the regional transit authority taxing district.

Citation of Rules Affected by this Order: Amending WAC 458-12-055 Taxable situs—Real property.

Statutory Authority for Adoption: RCW 84.08.010(2) and 84.08.070.

Adopted under notice filed as WSR 18-15-022 on July 10, 2018.

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 the Request of a Non-governmental 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: September 18, 2018.

Erin T. Lopez  
Rules Coordinator

AMENDATORY SECTION (Amending Order PT 68-6, filed 4/29/68)

**WAC 458-12-055 Taxable situs—Real property. (1) Situs - Generally.** The situs of real property is at the place where the property is located. The situs of a possessory interest in real property is at the place where the real property is situated.

~~(Where)~~ **(2) Parcel boundaries.** If a parcel of real property is located in more than one taxing district, the portion lying within a particular district is assessable only in that district. However, only parcels wholly located within a regional transit authority district under RCW 81.104.175 are assessable for property taxes imposed by that district.

### WSR 18-19-085

#### PERMANENT RULES

#### PROFESSIONAL EDUCATOR

#### STANDARDS BOARD

[Filed September 18, 2018, 11:56 a.m., effective October 19, 2018]

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

Purpose: Amends WAC 181-79A-150 to remove reference to school social worker programs that are no longer required.

Citation of Rules Affected by this Order: Amending WAC 181-79A-150.

Statutory Authority for Adoption: RCW 28A.410.220.

Adopted under notice filed as WSR 18-07-118 on March 21, 2018.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone 360-725-6238, fax 360-586-4548, email david.brenna@k12.wa.us, web site www.pesb.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 the Request of a Non-governmental 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: September 18, 2018.

David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 11-15-038, filed 7/13/11, effective 8/13/11)

**WAC 181-79A-150 General requirements—Teachers, administrators, educational staff associates and first peoples' language, culture, and oral tribal traditions teachers.** The following requirements are to be met by candidates for certification as teachers including career and technical education teachers, administrators, educational staff associates, or first peoples' language, culture, and oral tribal traditions teachers:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state who are not holders of a valid Washington state teacher's, administrator's, educational staff associate's, career and technical education, or first peoples' language, culture, and oral tribal traditions teacher's certificate must give evidence of good moral character and personal fitness as specified in WAC 181-79A-155 and must complete a record check through the Washington state patrol criminal identification system and through the Federal Bureau of Investigation at the applicant's expense as required by RCW 28A.410.010; such record check shall include a fingerprint check using a Washington state patrol approved fingerprint card: Provided, That the superintendent of public instruction may waive the record check for an applicant who has had a record check within the two years prior to application.

(3) Degrees and course work. A candidate for certification shall hold appropriate degrees, licenses, and additional course work as prescribed in chapters 181-79A and 181-77 WAC or have qualified under WAC 181-79A-257 or 181-78A-700.

(4) Approved preparation program. Applicants for certification as teachers, administrators, school counselors, and school psychologists (~~and school social workers~~), except as otherwise provided in WAC 181-79A-257, and 181-79A-231, and in chapter 181-77 WAC, in order to be certified within the state of Washington shall have completed a state approved preparation program in the professional field for which certification is to be issued; such program shall have included a defined course of study and a supervised internship as per chapter 181-78A WAC. Applicants for certification as first peoples' language, culture, and oral tribal traditions teachers shall have completed a sovereign tribal government's first peoples' language, culture, and oral tribal traditions teaching certification program.

(5) Assessments. See RCW 28A.410.220.

Purpose: Amends WAC 181-79A-223 to clarify language for continuing certification as educational service associate with speech language pathology training.

Citation of Rules Affected by this Order: Amending WAC 181-79A-223.

Statutory Authority for Adoption: RCW 28A.410.220.

Adopted under notice filed as WSR 18-08-024 on March 26, 2018.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone 360-725-6238, fax 360-586-4548, email david.brenna@k12.wa.us, web site www.pesb.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 the Request of a Non-governmental 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: September 18, 2018.

David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 17-11-104, filed 5/22/17, effective 6/22/17)

**WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist, and school social worker.** Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist and school social worker certification shall apply directly to the professional certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 181-79A-150, except state approved college/university professional preparation program. Provided, that it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program: Provided, That if any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(1) School nurse.

(a) Initial.

## WSR 18-19-086

### PERMANENT RULES

### PROFESSIONAL EDUCATOR

### STANDARDS BOARD

[Filed September 18, 2018, 3:22 p.m., effective October 19, 2018]

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

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work (~~(during)~~ prior to the expiration date of the one (~~hundred eighty-day period~~) year temporary permit.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of postbaccalaureate course work in education, nursing, or other health sciences.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work (~~(during the one hundred eighty-day period)~~ prior to the expiration date of the one year temporary permit.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work (~~(during the one hundred eighty day period)~~) prior to the expiration of the one year temporary permit.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(4) School speech-language pathologist or audiologist.

(a) Initial.

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: Provided, That if any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards

board which will consist of the following outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work (~~(during the one hundred eighty day period)~~) prior to the expiration of the one year temporary permit.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology or audiology.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

~~((iii) Candidates that can demonstrate the successful completion of the national American Speech-Language-Hearing Association (ASHA) certificate in addition to the education and employment experience.))~~

(5) School social worker.

(a) Initial.

(i) The candidate shall hold ~~((an MSW))~~ a master of social work or master of social welfare from ((a regionally)) an accredited institution of higher learning.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work (~~during the one hundred eighty-day period~~) prior to the expiration of the one year temporary permit.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school social worker and have completed an annual professional growth plan or fifteen quarter hours or one hundred fifty clock hours specific to the role of the school social worker since earning the initial certificate.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(6) Beginning with continuing certificates first issued after July 1, 2015, continuing certificates for school nurses and school social workers include a requirement for suicide prevention training per RCW 28A.410.226 and again every five years after receiving the continuing certificate.

(7) The professional educator standards board will review courses for approval and reapproval/disapproval per the posted schedule. All providers of the initial ESA course must maintain current approval status to offer the course.

**WSR 18-19-103**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-252—Filed September 19, 2018, 9:44 a.m., effective October 20, 2018]

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

Purpose: This is to add WAC 220-640-200 to existing chapter 220-640 WAC based on changes from ESSB 6040 passed during the 2014 legislative session.

Citation of Rules Affected by this Order: New WAC 220-640-200 Deleterious exotic wildlife.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520.

Adopted under notice filed as WSR 18-15-048 on July 13, 2018.

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 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 0.

Date Adopted: September 19, 2018.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-640-200 Deleterious exotic wildlife.** (1) The following animals are hereby designated as deleterious exotic wildlife:

(a) Birds: In the family Anatidae, the mute swan (*Cygnus olor*).

(b) Mammals:

(i) In the family Viverridae, the mongoose (all members of the genus *Herpestes*).

(ii) In the family Suidae, the wild boar (*Sus scrofa* and all wild hybrids).

(iii) In the family Tayassuidae, the collared peccary (javelina) (*Tayassu tajacu*).

(iv) In the family Bovidae, all members and hybrids of the following genera: *Rupicapra* (Chamois); *Hemitragus* (Tahr); *Capra* (goats, ibexes except domestic goat *Capra hircus*); *Ammotragus* (Barbary sheep or Aoudad); *Ovis* (sheep), except domestic sheep *Ovis aries*; *Damaliscus* (Sassabies); *Alcelaphus buselaphus* (Hartebeest); and *Connochaetes* (Wildebeests).

(v) In the family Cervidae, the European red deer (*Cervus elaphus elaphus*), all nonnative subspecies of *Cervus elaphus*, and all hybrids with North American elk; Fallow deer (*Dama dama*), Axis deer (*Axis axis*), Rusa deer or Sambar deer (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*), Sika deer (*Cervus Nippon*), Reindeer (all members of the genus *Rangifer* except *Rangifer tarandus caribou*), and Roedeer (all members of the genus *Capreolus*).

(2) It is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of deleterious exotic wildlife, their gametes and/or embryo, except as provided under subsection (3), (4), (5), (6), or (7) of this section, and as provided in WAC 220-640-020.

(3) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, possess, and propagate live specimens of deleterious exotic wildlife for scientific research or for display by zoos or aquariums who are accredited institutional members of the association of zoos and aquariums (AZA), provided:

(a) The specimens are confined to a secure facility;

(b) The specimens will not be transferred to any other location within the state, except to other AZA-accredited facilities with written director approval or as otherwise authorized in writing by the director;

(c) The specimens will be euthanized and all parts incinerated at the end of the project, except for federally listed endangered or threatened species, which may be retained or transferred where in compliance with federal law;

(d) The person will keep such records on the specimens and make such reports as the director may require; and

(e) The person complies with other requirements of this section.

(4) Retention or disposal of existing specimens lawfully in captivity:

(a) Specimens lawfully in captivity prior to January 18, 1991: A person holding exotic wildlife specimens in captivity that were classified by the fish and wildlife commission as deleterious exotic wildlife on or before January 18, 1991, may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to January 18, 1991, provided such person complies with (c) through (h) of this subsection hereunder and the other requirements of this section;

(b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity that were classified by the fish and wildlife commission as deleterious exotic wildlife by operation of emergency rule filed June 19, 1992, (in the family Bovidae, Ssassabies (all members of the genus *Damaliscus*), Hartebeest (*Alcelaphus buselaphus*), Wildebeests (all members of the genus *Connochaetes*), Markhor (*Capra falconeri*), and Marcopolo sheep (*Ovis ammon*); and in the family Cervidae, Fallow deer (*Dama dama*), Axis deer (*Axis axis*), Sika deer (*Cervus nippon*), and Rusa deer or Sambar deer (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof, provided such person complies with (c) through (h) of this subsection and the other requirements of this section and except as provided under subsection (7) of this section;

(c) The person reported to the director, in writing, the species, number, and location of the specimens, as required;

(d) The specimens are confined to a secure facility at the location reported;

(e) Live specimens are not propagated, except at AZA-accredited facilities with the written permission of the director or as otherwise authorized in writing by the director;

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at AZA-accredited facilities with the written permission of the director;

(g) Live specimens are not released; and

(h) Live specimens are not sold or transferred, except:

(i) Live specimens in lawful possession may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law;

(ii) Federally listed endangered or threatened species may be transferred to AZA-accredited facilities where in compliance with federal law;

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided that all other requirements are satisfied and the total number of locations where animals are held is not increased; and

(iv) AZA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(5) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding exotic wildlife specimens in captivity that are newly classified by the fish and wildlife commission as deleterious exotic wildlife by operation of this section (Reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*), and Roedeer (all members of the genus *Capreolus*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens; and

(b) The person complies with subsection (4)(d) through (h) of this section and the other requirements of this section.

(6) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(7) Notwithstanding the provisions of subsection (2) of this section, Fallow deer (*Dama dama*) and reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*) may be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred, provided:

(a) The person complies with subsection (4)(c) through (g) of this section and the other requirements of this section, except for subsection (4)(e), (f), and (h) of this section; and

(b) The person complies with the department of agriculture per WAC 16-54-180 as now or hereafter amended, except: Animals that have resided at any time east of a line drawn through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and the 100th Meridian where it passes through Texas, or that have had contact with or shared common ground with animals which have resided at any time east of such line, shall not be imported into the state of Washington unless specifically authorized in

writing by the director of the department of agriculture and the department of fish and wildlife;

(c) No specimens affected with any infectious or communicable disease shall be imported into the state unless in compliance with all applicable laws and regulations and unless written permission is obtained from the directors of the department of agriculture and the department of fish and wildlife;

(d) The specimens are confined to a secure facility; and

(e) Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River.

(8) Escaped animals:

(a) Escaped deleterious exotic wildlife, including Fallow deer (*Dama dama*) and reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*) will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy deleterious exotic wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of deleterious exotic wildlife must be reported immediately to the department.

(c) The recapture or death of escaped deleterious exotic wildlife must be reported immediately to the department.

(9) Secure facility:

(a) All deleterious exotic wildlife will be held in a secure facility. For the purpose of this section, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of deleterious exotic wildlife specimens or ingress of resident wildlife ungulates (hoofed animals). The adequacy of the facility shall be determined by the director or agents of the director.

(b) For deleterious exotic wildlife listed in subsection (1)(b)(iv) and (v) of this section, the "secure facility" must comply with the fencing requirements in subsection (10) of this section, unless otherwise authorized by the director in writing.

(10) Fencing requirements:

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and deleterious exotic wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least twelve and one-half gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least twelve and one-half gauge woven wire, fourteen and one-half gauge high-tensile woven wire, chain link, nonclimbable woven fence, or other fence approved by the director. If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of deleterious exotic wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level; and

(iv) Have corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent deleterious exotic wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing deleterious exotic wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993, and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(11) Marking requirements:

(a) All live specimens of deleterious exotic wildlife, except those listed in subsection (1)(a) and (b) of this section, shall be permanently and individually identified by methods approved by the director.

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) All specimens of deleterious exotic wildlife identified in subsection (1)(b)(iv) and (v) of this section must be individually identified by the methods specified below:

(i) All live specimens of such deleterious exotic wildlife shall be marked with USDA official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order; and

(ii) All live specimens of such deleterious exotic wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(d) All lawful progeny of deleterious exotic wildlife must be tagged and tattooed by December 31st of the year of birth or upon leaving the holding facility, whichever is earlier.

(e) Where allowed, if an animal is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(f) Where allowed, live specimens of deleterious exotic wildlife shall be marked prior to importation.

(g) No unmarked deleterious exotic wildlife may be sold or otherwise transferred from the holding facility.

(12) Testing of specimens:

(a) Where allowed, prior to entry into the state of Washington, a person importing any member of the genus *Cervus*, which is identified in subsection (1)(b)(v) of this section, must submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington). Such testing shall be at the possessor's expense. Animals that are deemed by the department of wildlife biologists upon examination to exhibit either: Behavioral (vocalization), morphological (size, rump patch, color), or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) The director may require a person currently possessing any member of the genus *Cervus* that are identified in subsection (1)(b)(v) of this section to submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington) for each individual cervid to the department. Such testing shall be at the possessor's expense. The director may require that any animal identified as a red deer or having nonindigenous genetic influence be destroyed, removed from the state, or neutered.

(c) The director may require that all specimens of deleterious exotic wildlife lawfully in captivity be tested for brucellosis (*brucella abortus*), tuberculosis (*mycobacterium bovis* and *mycobacterium tuberculosis*), meningeal worm (*Paralophostrongylus tenuis*), and muscle worm (*Elaphostrongylus cervis*) in accordance with the procedures specified in the department of agriculture per WAC 16-54-180 as now or hereafter amended and/or for other disease or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(13) Reporting:

(a) A person holding deleterious exotic wildlife in captivity shall submit a completed report no later than March 30, 1993, and then no later than January 31st of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing deleterious exotic wildlife must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(14) Inspection:

(a) All holding facilities for deleterious exotic wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections shall be conducted at reasonable times.

(15) Notification and disposition of diseased animals:

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this section have or

have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that deleterious exotic wildlife held pursuant to this section have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of animals, quarantine, or disinfection is required at any facility holding deleterious exotic wildlife, pursuant to this section. If the director determines that destruction, quarantine, or disinfection is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(16) Quarantine area:

(a) Any facility holding deleterious exotic wildlife must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington:

(i) An approved quarantine facility is one that meets criteria set by the Washington state department of agriculture;

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

(17) Seizure:

(a) The department of wildlife may seize any unlawfully possessed deleterious exotic wildlife.

(b) The cost of any seizure and/or holding of deleterious exotic wildlife may be charged to the possessor of such animals.

**WSR 18-19-105**

**PERMANENT RULES**

**DEPARTMENT OF COMMERCE**

[Filed September 19, 2018, 11:46 a.m., effective October 20, 2018]

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

Purpose: Update the average greenhouse gas emission output from new, commercially available combined cycle combustion turbines as required by RCW 80.80.040 and 80.80.050.

Citation of Rules Affected by this Order: Amending WAC 194-26-010 and 194-26-020.

Statutory Authority for Adoption: RCW 80.80.050.

Adopted under notice filed as WSR 18-15-081 on July 18, 2018.

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 the Request of a Non-governmental 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 0.

Date Adopted: September 19, 2018.

Brian Bonlender  
Director

**Chapter 194-26 WAC**

**AVERAGE AVAILABLE GREENHOUSE ((GAS)) GASES EMISSIONS OUTPUT FOR EMISSIONS PERFORMANCE STANDARD**

AMENDATORY SECTION (Amending WSR 13-06-074, filed 3/6/13, effective 4/6/13)

**WAC 194-26-010 Authority.** This chapter is promulgated pursuant to ~~((the authority granted in RCW 80.80.040, requiring the department of commerce to adopt the average~~

~~available greenhouse gases emissions output as determined under RCW 80.80.050 as the greenhouse gas emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments)) RCW 80.80.050, which requires the energy division of the department of commerce to survey new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers and purchased in the United States to determine the average rate of emissions of greenhouse gases for these turbines and adopt the average available greenhouse gases emissions output by rule every five years beginning five years after July 22, 2007.~~

AMENDATORY SECTION (Amending WSR 13-06-074, filed 3/6/13, effective 4/6/13)

**WAC 194-26-020 Average available greenhouse ~~((gas)) gases emissions output.~~ (1)** The energy ~~((policy))~~ division of the department of commerce has surveyed new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers and purchased in the United States, and finds the average ~~((rate of emissions of))~~ available greenhouse gases ~~((for these turbines))~~ emissions output to be nine hundred ~~((and seventy))~~ twenty-five pounds per megawatt-hour as of the effective date of this section.

(2) The purpose of this subsection is to provide historical values for the average available greenhouse gases emissions output established in WAC 194-26-020.

<u>Average available greenhouse gases emissions output (lb GHG/MWh) - Historical Values</u>	<u>Start date</u>	<u>End date</u>
<u>970</u>	<u>4/6/13</u>	<u>Effective date of this section</u>